

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Case No. 1:19-cr-227
(LJV)

JOSEPH BONGIOVANNI,

Defendant.

September 16, 2024

TRANSCRIPT EXCERPT - EXAMINATION OF RONALD SERIO - DAY 1
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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PRESENT:

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KAREN A. CHAMPOUX, USA Paralegal

LAW CLERK:

REBECCA FABIAN IZZO, ESQ.

1 | COURT DEPUTY CLERK: COLLEEN M. DEMMA

2 **COURT REPORTER:** **ANN MEISSNER SAWYER, FCRR, RPR, CRR**
3 Robert H. Jackson Federal Courthouse
4 2 Niagara Square
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* * * * *

8 (Excerpt commenced at 2:47 p.m.)

9 (Jury is present.

10 | **THE COURT:** The government can call its next witness.

11 | **MR. TRIPPI:** We call Ron Serio, Your Honor.

13 | RONALD SERIO, having been duly called and sworn,

14 testified as follows:

15 MR. TRIPI: May I proceed, Your Honor?

16 | THE COURT: You may.

17 | MR. TRIPPI: Thank you.

DIRECT EXAMINATION BY MR. TRIPPI:

20 Q. Good afternoon, Mr. Serio.

21 A. Good afternoon.

22 Q. Mr. Serio, how old are you, sir?

23 A. I'm 48.

24 Q. And as you sit there today, who do you live with?

25 A. My parents.

02:49PM 1 Q. Fair to say the events that brought you to this chair
02:49PM 2 today, you went from living in a mansion to, at age 47,
02:49PM 3 living with your mom and dad?

02:49PM 4 A. Correct.

02:49PM 5 Q. Where did you grow up?

02:49PM 6 A. I'm sorry?

02:49PM 7 Q. Where did you grow up?

02:49PM 8 A. Tonawanda.

02:49PM 9 Q. City or Town?

02:49PM 10 A. Town of Tonawanda.

02:49PM 11 Q. How far have you gone in school?

02:49PM 12 A. High school.

02:49PM 13 Q. What high schools have you attended?

02:49PM 14 A. O'Hara, Kenmore West, Kenmore East.

02:49PM 15 Q. For those who aren't familiar, would that be Cardinal
02:49PM 16 O'Hara High School?

02:49PM 17 A. Correct.

02:49PM 18 Q. Is that a private school?

02:49PM 19 A. Yes.

02:49PM 20 Q. And then Kenmore West and Kenmore East are both public
02:49PM 21 schools?

02:49PM 22 A. Correct.

02:49PM 23 Q. What type of jobs have you done in the course of your
02:49PM 24 life?

02:49PM 25 A. I was a busboy. Worked for a butcher. Pizza delivery.

02:50PM 1 Carpentry. And I owned a sub shop.

02:50PM 2 Q. And in terms of carpentry, how did you learn to do that
02:50PM 3 type of work?

02:50PM 4 A. Through my father and brother.

02:50PM 5 Q. I was going to ask you, do you have any siblings?

02:50PM 6 A. Yes.

02:50PM 7 Q. Who are your siblings?

02:50PM 8 A. Thomas Serio and Carrie Serio.

02:50PM 9 Q. And you said you're -- you said you're 47?

02:50PM 10 A. 48.

02:50PM 11 Q. 48, I'm sorry. How old is Thomas?

02:50PM 12 A. He is 50.

02:50PM 13 Q. So he's your older brother?

02:50PM 14 A. Correct.

02:50PM 15 Q. How old is your sister, Carrie?

02:50PM 16 A. She is 44.

02:50PM 17 Q. What do they each do for a living currently?

02:50PM 18 A. My brother owns a collection agency, and my sister owns a
02:50PM 19 cleaning company.

02:50PM 20 Q. And what did your parents do for a living?

02:50PM 21 A. My mother worked at M&T Bank, and my father worked at
02:51PM 22 Dunlop.

02:51PM 23 Q. What was your mother's job at M&T Bank?

02:51PM 24 A. She started off as a teller, and then eventually heading
02:51PM 25 some department with ATM machines.

02:51PM 1 Q. And you said your father worked at Dunlop. What --
02:51PM 2 what -- what is -- what is Dunlop?

02:51PM 3 A. It's a tire company. He was making tires.

02:51PM 4 Q. Are your parents both retired from those jobs?

02:51PM 5 A. Yes.

02:51PM 6 Q. At some point growing up, you indicated you went to three
02:51PM 7 different high schools, did -- did you end up graduating from
02:51PM 8 high school?

02:51PM 9 A. Yes.

02:51PM 10 Q. Which one did you graduate from?

02:51PM 11 A. Kenmore East.

02:51PM 12 Q. At some point during your life in high school, did you
02:51PM 13 start to focus less on school and get into using drugs?

02:51PM 14 A. Yes.

02:51PM 15 Q. What was your first introduction to drugs?

02:51PM 16 A. I was 14. Smoked marijuana and was doing LSD.

02:51PM 17 Q. What type of drug is LSD?

02:51PM 18 A. Hallucinogenic.

02:51PM 19 Q. Is that something you did less frequently or more
02:52PM 20 frequently than the marijuana?

02:52PM 21 A. Less frequently.

02:52PM 22 Q. Okay. And you said you were 14 years old?

02:52PM 23 A. Correct.

02:52PM 24 Q. Did that -- did those experiences when you were 14 start
02:52PM 25 you down a path where you began using and selling marijuana?

02:52PM 1 A. Yes.

02:52PM 2 Q. Tell the jury about your introduction to -- how old were
02:52PM 3 you and describe for them your introduction to selling
02:52PM 4 marijuana.

02:52PM 5 A. Selling marijuana? I believe I was 15. And I worked for
02:52PM 6 a telemarketing company that my cousin owned, and his brother
02:52PM 7 was a manager there. And I was getting marijuana from him.

02:52PM 8 Q. And at that point, 15 years old, what type of marijuana
02:52PM 9 amounts are you talking about?

02:52PM 10 A. Like a half pound, a pound at most.

02:52PM 11 Q. And what were you doing with the half-pound or the
02:52PM 12 one-pound quantities that you were getting?

02:52PM 13 A. Selling them in 3-and-a-half grams, 7 grams, half ounces,
02:52PM 14 ounces.

02:52PM 15 Q. Were you selling them to other kids your age?

02:52PM 16 A. Yes.

02:52PM 17 Q. Basically, high school, we're talking high school age?

02:53PM 18 A. Yes.

02:53PM 19 Q. Eventually -- was that cousin a cousin by the name of
02:53PM 20 Gordon Hinckley?

02:53PM 21 A. Yes.

02:53PM 22 Q. So to put it, I guess, bluntly, Gordon Hinckley was your
02:53PM 23 first source of supply for marijuana?

02:53PM 24 A. Correct.

02:53PM 25 Q. As time went on, you got older. Did the amounts of

02:53PM 1 marijuana that you sell progress?

02:53PM 2 A. Yes.

02:53PM 3 Q. Did the different types of drugs that you sold progress?

02:53PM 4 A. Yes.

02:53PM 5 Q. As you -- as you started to get older, did you learn how

02:53PM 6 to grow marijuana?

02:53PM 7 A. Yes.

02:53PM 8 Q. How old were you, or when -- when did you learn how to

02:53PM 9 grow marijuana?

02:53PM 10 A. I believe it was early 2000s.

02:53PM 11 Q. Ballpark, about how old were you by then?

02:53PM 12 A. Drawing a blank.

02:53PM 13 Q. Are we talking, like, 24 years ago?

02:54PM 14 A. 24 years ago, so I'd be 24.

02:54PM 15 Q. Okay. How did you learn how to grow marijuana?

02:54PM 16 A. Just from reading books.

02:54PM 17 Q. Where did you get these books?

02:54PM 18 A. At Barnes & Noble's.

02:54PM 19 Q. And did you learn how to grow marijuana outdoors?

02:54PM 20 A. Yes.

02:54PM 21 Q. Did you learn how to grow marijuana indoors?

02:54PM 22 A. Yes.

02:54PM 23 Q. Did you learn to do those things at the same time, or was

02:54PM 24 it a process over time?

02:54PM 25 A. It was a process over -- I was more indoor. Outdoor was

02:54PM 1 too iffy depending on the whether, stuff like that. It was
02:54PM 2 inconsistent.

02:54PM 3 Q. When you were first getting in -- started getting into
02:54PM 4 grows and learning how to grow, your first experiences were
02:54PM 5 indoors?

02:54PM 6 A. Correct.

02:54PM 7 Q. Where was the -- where did you first start growing
02:54PM 8 marijuana indoors?

02:54PM 9 A. I was doing real estate and I would buy houses, and
02:54PM 10 sometimes I would have a grow house in there. I'd grow in
02:54PM 11 there one or two times and then sell the house.

02:54PM 12 Q. So were these houses you were purchasing?

02:55PM 13 A. Correct.

02:55PM 14 Q. At that point, are you about 24 years old?

02:55PM 15 A. Yes.

02:55PM 16 Q. And did you -- did you have a formal company yet in terms
02:55PM 17 of real estate, or were you just someone who would buy a
02:55PM 18 house, do some work on it, carpentry work, and then sell it?

02:55PM 19 A. I believe it was TRS Enterprises, but sometimes we put it
02:55PM 20 in our own names because I was partners with my brother.

02:55PM 21 Q. So it's you and Tom?

02:55PM 22 A. Yes.

02:55PM 23 Q. Okay. Tell the jury, what's the process of setting up an
02:55PM 24 indoor marijuana grow? Explain it to them.

02:55PM 25 A. You have to build a room in the basement, you have to do

02:55PM 1 it in the basement because it's cooler down there. You'd
02:55PM 2 frame it, drywall it, have exhaust, run electric to properly
02:55PM 3 run the lights so you don't start a fire.

02:55PM 4 Q. When setting up a grow room, does it involve heavy -- a
02:56PM 5 lot of lighting equipment?

02:56PM 6 A. Yes.

02:56PM 7 Q. What type of lighting equipment do you set up?

02:56PM 8 A. 600 watt, high-pressure sodium bulbs.

02:56PM 9 Q. And why is that the type of lighting that you need?

02:56PM 10 A. It's -- well, there's -- I forget what the other kind is
02:56PM 11 for -- to grow it, it's like a blue light.

02:56PM 12 And then when you go into flowering, which produces the
02:56PM 13 bud marijuana, you have got to use more of a red light. But
02:56PM 14 it has to be high power.

02:56PM 15 Q. Is there anything you do when you set up that type of
02:56PM 16 room to try to keep the odor down from the marijuana growing?

02:56PM 17 A. Yes. Carbon filters. They're like filters that suck the
02:56PM 18 air out through a chimney, but it filters it and takes the
02:56PM 19 smell away.

02:56PM 20 Q. Does that essentially, like, get the exhaust outdoors but
02:56PM 21 try to take away the odor?

02:56PM 22 A. Because if you have more pressure going out, it sucks all
02:56PM 23 the air in so none of the air is escaping.

02:57PM 24 Q. Why is it important to try to keep the odor down?

02:57PM 25 A. Because you could get caught that way if a utility worker

02:57PM 1 smells the marijuana outside.

02:57PM 2 Q. Or neighbors?

02:57PM 3 A. Neighbors.

02:57PM 4 Q. In terms of indoor grows, describe the process of making
02:57PM 5 sure the plants get watered.

02:57PM 6 A. Well, you have to go there every second day and water
02:57PM 7 them. They get feeded nutrients.

02:57PM 8 Q. For the lighting equipment, do you set things to timers?

02:57PM 9 A. Yes.

02:57PM 10 Q. Why is -- why do you do that?

02:57PM 11 A. Because when it grows, it has to be on -- 18 hours on,
02:57PM 12 six hours off.

02:57PM 13 And then when it flowers, it's got to be 12 hours on, 12
02:57PM 14 hours off. And it has to be consistent.

02:57PM 15 Q. Okay. Now, talk them through the sort of lifespan of the
02:58PM 16 marijuana plant itself. When you start this indoor grow, are
02:58PM 17 you beginning with seeds?

02:58PM 18 A. No. You're taking clones from -- because there's male
02:58PM 19 and female. Male have seeds, so you don't want male.

02:58PM 20 So you take a female plant, and you cut branches off, and
02:58PM 21 you put them in a solution, and then they're the exact clone
02:58PM 22 of the mother plant. So you'd have, say, 100 plants of the
02:58PM 23 same ones, so --

02:58PM 24 Q. Is the mother plant the one that creates the bud?

02:58PM 25 A. Well, the mother plant creates the clones that are

02:58PM 1 female, so all hundred plants are females, so those all
02:58PM 2 hundred will create bud. If not, you have male, it will just
02:58PM 3 create all seed.

02:58PM 4 Q. And the bud is what gets sold to smoke?

02:58PM 5 A. Correct.

02:58PM 6 Q. How long -- what's the process of growing plant
02:58PM 7 indoors --

02:58PM 8 A. You have to --

02:58PM 9 Q. -- in terms of timeframe?

02:58PM 10 A. Timeframe, about two and a half months each cycle.

02:58PM 11 Q. Now, I'll get into outdoor grows a little bit later, but
02:59PM 12 eventually you got into outdoor grows as well; is that right?

02:59PM 13 A. Yes.

02:59PM 14 Q. While you were involved in this sort of marijuana growing
02:59PM 15 indoors, did it become lucrative for you?

02:59PM 16 A. Yes.

02:59PM 17 Q. Did you also get into other drugs for distribution?

02:59PM 18 A. Yes.

02:59PM 19 Q. What types of other drugs?

02:59PM 20 A. Cocaine.

02:59PM 21 Q. Roughly when was that?

02:59PM 22 A. Around 2008. And then I stopped for a while, and then
02:59PM 23 2013, on -- on and off.

02:59PM 24 Q. We'll get more into that in a little bit.

02:59PM 25 A. Okay.

02:59PM 1 Q. Now, at a certain point in your progress sort of before
02:59PM 2 you started these indoor grows, did you become aware that one
02:59PM 3 of the people that you were procuring marijuana for --
02:59PM 4 from -- for -- from, excuse me, for distribution was a person
02:59PM 5 named Mike Masecchia?

03:00PM 6 A. Yes.

03:00PM 7 Q. At that point, how old were you when you first developed
03:00PM 8 an awareness that the marijuana that you were getting to sell
03:00PM 9 was coming from Mike Masecchia?

03:00PM 10 A. Around 18 years old.

03:00PM 11 Q. Now at that point, was there a middleman sort of between
03:00PM 12 you and Masecchia?

03:00PM 13 A. Yes.

03:00PM 14 Q. And Masecchia is older than you, right?

03:00PM 15 A. Yes, I believe he's ten years older.

03:00PM 16 Q. And so who was that middleman at that point in time?

03:00PM 17 A. In the beginning, it was Lou LoVallo.

03:00PM 18 Q. And then did it become someone else?

03:00PM 19 A. Yes, Joe Tomasello.

03:00PM 20 Q. Okay. In this timeframe of your life, you're age 18, 19.
03:00PM 21 You haven't progressed yet to the indoor grows that you just
03:00PM 22 described a moment ago. Did you know what Mike Masecchia's
03:00PM 23 day job ws?

03:00PM 24 A. Yes.

03:00PM 25 Q. What was his day job?

03:00PM 1 A. School teacher.

03:00PM 2 Q. Through the people you were dealing with, did you have an

03:00PM 3 understanding of his reputation at the time?

03:00PM 4 A. Yes.

03:00PM 5 Q. What was your understanding of his reputation?

03:01PM 6 A. That he was tough.

03:01PM 7 Q. As time went on, did the understanding of his reputation

03:01PM 8 evolve into something more?

03:01PM 9 A. Yes.

03:01PM 10 Q. Did you develop an understanding that he was connected?

03:01PM 11 A. Correct.

03:01PM 12 Q. And when I say the word "connected," what -- what do you

03:01PM 13 understand that to mean?

03:01PM 14 A. To Italian Organized Crime.

03:01PM 15 Q. Now, over time, as you got older, did your relationship

03:01PM 16 with Masecchia evolve?

03:01PM 17 A. Yes.

03:01PM 18 Q. Did you eventually become partners in marijuana

03:01PM 19 trafficking?

03:01PM 20 A. Yes.

03:01PM 21 Q. Did you become friends?

03:01PM 22 A. Yes.

03:01PM 23 Q. Did you become close?

03:01PM 24 A. Very close.

03:01PM 25 Q. And I'll go back and get into this in more detail, but

03:01PM 1 eventually, as time went on, did your operations grow to the
03:01PM 2 point where you bought a mansion at 697 Lebrun?

03:01PM 3 A. Yes.

03:01PM 4 Q. Was that in or about 2011?

03:01PM 5 A. Yes.

03:01PM 6 **MR. TRIPI:** Ms. Champoux, can we pull up
03:02PM 7 Exhibit 42A-33, 34, and 35. We can pop them all on the screen
03:02PM 8 at the same time.

03:02PM 9 **BY MR. TRIPI:**

03:02PM 10 Q. Are those different views of the property you purchased
03:02PM 11 in or about 2011 at 697 Lebrun?

03:02PM 12 A. Yes.

03:02PM 13 Q. And did you renovate that property?

03:02PM 14 A. Yes, I did.

03:02PM 15 Q. Did you renovate it in part with money you were making
03:02PM 16 selling drugs?

03:02PM 17 A. Yes.

03:02PM 18 Q. Is that one way to legitimize your money and to kind of
03:02PM 19 clean it?

03:02PM 20 A. Yes.

03:02PM 21 Q. Describe for the jury the renovations you did to that
03:02PM 22 property.

03:02PM 23 A. I redid seven bathrooms, gutted them, gutted the kitchen,
03:02PM 24 redid the kitchen, tennis court, pool.

03:02PM 25 Q. When you say "tennis court," what did you do to the

03:02PM 1 tennis court?

03:02PM 2 A. Had it resurfaced.

03:03PM 3 Q. Okay. What did you do to the pool?

03:03PM 4 A. I had a hot tub put in the front of it.

03:03PM 5 Q. Did you build a separate pool house?

03:03PM 6 A. Yes.

03:03PM 7 Q. Where's that on this overhead?

03:03PM 8 A. This is -- is the circle --

03:03PM 9 Q. You can circle it, yeah.

03:03PM 10 A. Right there.

03:03PM 11 Q. Did you circle the garage and the pool house there?

03:03PM 12 A. Oh, yeah.

03:03PM 13 Q. Okay.

03:03PM 14 **MR. TRIPI:** May the record reflect the witness made a
03:03PM 15 circle in pretty much the middle of Exhibit 42A-35 indicating
03:03PM 16 both the garage and the pool house.

03:03PM 17 **BY MR. TRIPI:**

03:03PM 18 Q. Is that an accurate description of what you did,

03:03PM 19 Mr. Serio?

03:03PM 20 A. Correct.

03:03PM 21 **MR. TRIPI:** Okay, we can take that down,

03:03PM 22 Ms. Champoux.

03:03PM 23 **BY MR. TRIPI:**

03:03PM 24 Q. I'd like to just start with a -- sort of a 30,000-foot
03:03PM 25 overview.

03:03PM 1 A. Okay.

03:03PM 2 Q. And then we're going to go through in more detail, okay?

03:03PM 3 A. Yes.

03:03PM 4 Q. Between approximately 2008 and the date you were arrested

03:03PM 5 by the Erie County Sheriffs on April 18th, 2017 --

03:03PM 6 A. Yes.

03:03PM 7 Q. -- that window of time -- how much total cocaine did you

03:04PM 8 and others working with you possess with intent to distribute

03:04PM 9 and distribute?

03:04PM 10 A. I would say at least 5 kilos.

03:04PM 11 Q. So 5 kilos or more?

03:04PM 12 A. Correct.

03:04PM 13 Q. That same window of time, between approximately 2008 and

03:04PM 14 April 18th, 2017, how many total marijuana plants did you and

03:04PM 15 others grow for distribution?

03:04PM 16 A. I don't know exactly, but I would say thousands.

03:04PM 17 Q. In that same window of time, between approximately 2008

03:04PM 18 and April 18th, 2017, how many total pounds of marijuana did

03:04PM 19 you and others would you estimate possess with intent to

03:04PM 20 distribute and distribute?

03:04PM 21 A. Around 10,000.

03:04PM 22 Q. For a portion of that time, between approximately 2015

03:04PM 23 and April 18th, 2017, the day you were arrested, did you also

03:04PM 24 acquire fake oxycodone pills that were really fentanyl?

03:05PM 25 A. Yes.

03:05PM 1 Q. Did you, at that point in your life, both use and
03:05PM 2 distribute them?

03:05PM 3 A. I used the majority of them, and distributed them to
03:05PM 4 users that were friends of mine.

03:05PM 5 Q. How many total pills would you say you acquired that were
03:05PM 6 of that type.

03:05PM 7 A. I would say 16,000. Four shipments of 4,000.

03:05PM 8 Q. Between those same dates that we've been working with,
03:05PM 9 approximately 2008 and April 18th, 2017, did you pay money to
03:05PM 10 a federal agent for protection of your drug-trafficking
03:05PM 11 activities and those that were working with you?

03:05PM 12 A. Yes.

03:05PM 13 Q. Who did you pay for protection?

03:05PM 14 A. Joe Bongiovanni.

03:05PM 15 Q. Who were you working with to pay Joe Bongiovanni?

03:05PM 16 A. Mike Masecchia and Lou Selva.

03:05PM 17 Q. What were you paying Joe Bongiovanni for in the broadest
03:06PM 18 terms?

03:06PM 19 A. For protection to know if I was being investigated, or --
03:06PM 20 and possible names of informants.

03:06PM 21 Q. I'll get into this in more detail later.

03:06PM 22 As part of that protection, did you want to know whether
03:06PM 23 your cell phone was tapped?

03:06PM 24 A. Yes.

03:06PM 25 Q. Did you want to know whether associates of yours had

03:06PM 1 their phones tapped?

03:06PM 2 A. Yes.

03:06PM 3 Q. Who was involved in getting information and passing it
03:06PM 4 back to you from Joseph Bongiovanni?

03:06PM 5 A. Mike Masecchia and Lou Selva.

03:06PM 6 Q. In your dealings with other sources of supply, drug
03:07PM 7 dealers, and by this point in your life in your trafficking
03:07PM 8 career, we're talking high-level distribution; is that right?

03:07PM 9 A. Yes.

03:07PM 10 Q. We're talking suppliers who can get access to a lot,
03:07PM 11 large quantities?

03:07PM 12 A. Correct.

03:07PM 13 Q. Did you use the fact that you had a DEA agent on the
03:07PM 14 payroll during negotiations with other traffickers to vouch
03:07PM 15 for the security of your operation?

03:07PM 16 A. Yes.

03:07PM 17 Q. Explain for the jury how you did that in a negotiation
03:07PM 18 specifically.

03:07PM 19 A. Well, in one example, I -- I was supposed to get
03:07PM 20 marijuana from somebody, but he was also bringing it to
03:07PM 21 Boston. So to try to convince him to give all the marijuana
03:07PM 22 to me, I said it would be safer if I -- if you stuck with me,
03:07PM 23 because I had a DEA agent on the payroll.

03:07PM 24 Q. And who was that supplier that you explained that to?

03:07PM 25 A. T.S. and Santiago Gale.

03:07PM 1 Q. So in other words, that person was providing some of
03:08PM 2 their marijuana to you and some to a purchaser in Boston, and
03:08PM 3 you wanted it all?

03:08PM 4 A. Correct.

03:08PM 5 Q. During that window of time, that overview that I've been
03:08PM 6 discussing, approximately 2008 to April 18th, 2017, how much
03:08PM 7 total money would you estimate you paid for protection, or
03:08PM 8 you paid in bribes, essentially?

03:08PM 9 A. About a quarter million.

03:08PM 10 Q. Now, did you ever meet Joseph Bongiovanni face to face?

03:08PM 11 A. No.

03:08PM 12 Q. Was that intentional and by design?

03:08PM 13 A. Yes.

03:08PM 14 Q. Explain for this jury why that was intentional and by
03:08PM 15 design.

03:08PM 16 A. We didn't want to be seen together because I was a drug
03:08PM 17 dealer and he was a DEA agent.

03:08PM 18 And also, there's only limited information, because if I
03:08PM 19 ever got in trouble, there would be only so much information
03:08PM 20 I could say.

03:08PM 21 Q. What do you mean by that part? Can you elaborate?

03:09PM 22 A. Well, if I got arrested, I wouldn't have specifics on,
03:09PM 23 like, in detail of what he was doing.

03:09PM 24 Q. So, the way it was -- this bribery scheme was set up, who
03:09PM 25 would you give your money to?

03:09PM 1 A. Mike Masecchia.

03:09PM 2 Q. And who would pay Bongiovanni?

03:09PM 3 A. Either Mike Masecchia or Lou Selva.

03:09PM 4 Q. And did Masecchia ever tell you the specifics of where

03:09PM 5 they were meeting for payment?

03:09PM 6 A. No.

03:09PM 7 Q. And in the drug trade, is that type of compartmentalizing

03:09PM 8 of information common in the trade?

03:09PM 9 A. Very common.

03:09PM 10 Q. As someone at your level of distribution at the time, was

03:09PM 11 it important to you to compartmentalize information that you

03:09PM 12 had from others in your operation?

03:09PM 13 A. Yes.

03:09PM 14 Q. Explain why that's important and common for the jury.

03:09PM 15 A. Say I had a shipment coming in. I wouldn't tell

03:09PM 16 everybody about it, because if someone got in trouble, then

03:09PM 17 they would have specifics to be able to get me -- to get the

03:10PM 18 shipment arrested.

03:10PM 19 Q. So do you just not give more information than is needed?

03:10PM 20 A. Correct.

03:10PM 21 Q. Does limiting dissemination of certain information help

03:10PM 22 keep the operation, the organization, and ultimately you,

03:10PM 23 secure?

03:10PM 24 A. Yes.

03:10PM 25 Q. Now, as you expanded and over time, were numerous other

03:10PM 1 individuals involved in various aspects of your network?

03:10PM 2 A. Yes.

03:10PM 3 Q. And this is a network where Masecchia became your
03:10PM 4 partner?

03:10PM 5 A. Correct.

03:10PM 6 Q. Did you have, for a period of time, a supplier named Mark
03:10PM 7 Kagan?

03:10PM 8 A. Yes.

03:10PM 9 Q. Where was Mark Kagan based out of?

03:10PM 10 A. In New York City.

03:10PM 11 Q. Did you have another source of supply eventually named
03:10PM 12 Santiago Gale who you referenced a moment ago?

03:11PM 13 A. Yes.

03:11PM 14 Q. And where was he based out of?

03:11PM 15 A. Utah.

03:11PM 16 Q. And where was he procuring the marijuana from?

03:11PM 17 A. California.

03:11PM 18 Q. Did you have people that introduced -- withdrawn.

03:11PM 19 Did you have an individual or individuals who introduced
03:11PM 20 you to Mark Kagan?

03:11PM 21 A. Yes, sir.

03:11PM 22 Q. How did you meet Mark Kagan?

03:11PM 23 A. Through Mike Piazza.

03:11PM 24 Q. And now turning back to Santiago Gale, who did you meet
03:11PM 25 Santiago Gale through, or who did -- who made that

03:11PM 1 introduction?

03:11PM 2 A. Through T.S..

03:11PM 3 Q. Was Frank Burkhart another person who knew Santiago Gale?

03:11PM 4 A. Correct.

03:11PM 5 Q. And were T.S. and Burkhart associated?

03:11PM 6 A. Yes.

03:11PM 7 Q. And we'll get into this name in a little further, but

03:11PM 8 were Burkhart and T.S. also associated with a person named

03:12PM 9 R.K.?

03:12PM 10 A. Yes.

03:12PM 11 Q. Eventually, did you move on to another source of supply

03:12PM 12 named Jarrett Guy?

03:12PM 13 A. Yes.

03:12PM 14 Q. And who introduced you to Jarrett Guy?

03:12PM 15 A. Mark Kagan.

03:12PM 16 Q. And where was Jarrett Guy based out of?

03:12PM 17 A. Vancouver.

03:12PM 18 Q. Vancouver, Canada?

03:12PM 19 A. Yes.

03:12PM 20 Q. Was another person that was part of your -- your network

03:12PM 21 and operations a person named Anthony Gerace?

03:12PM 22 A. Yes.

03:12PM 23 Q. Is he someone that you were friends with?

03:12PM 24 A. Yes.

03:12PM 25 Q. Is he someone that supplied you marijuana at times, and

03:12PM 1 you also supplied him marijuana?

03:12PM 2 A. Correct.

03:12PM 3 Q. Is he someone that also you provided some of those
03:12PM 4 fentanyl pills?

03:12PM 5 A. Yes.

03:12PM 6 Q. We'll get into more details in a moment, okay?

03:13PM 7 In terms of a general review, who were your cocaine
03:13PM 8 suppliers?

03:13PM 9 A. Jimmy Rivera, and sometimes Jacob Martinez.

03:13PM 10 Q. I should have asked you this when I asked you the
03:13PM 11 overview questions about Jarrett Guy.

03:13PM 12 Was he also the one who supplied you those fentanyl pills
03:13PM 13 as time went on?

03:13PM 14 A. Correct.

03:13PM 15 Q. And was that closer to that 2015 to 2017 timeframe?

03:13PM 16 A. Yes. Yes.

03:13PM 17 Q. Was there also an occasion where Jarrett Guy supplied you
03:13PM 18 with MDMA?

03:13PM 19 A. Yeah, one time he sent 2 kilos.

03:13PM 20 Q. Is that Ecstasy?

03:13PM 21 A. Yes.

03:13PM 22 **MR. TRIPI:** Judge, I'm fine to keep going. I just
03:13PM 23 don't know when you want the afternoon break.

03:14PM 24 **THE COURT:** About 3:30 let's break.

03:14PM 25 **MR. TRIPI:** Okay.

03:14PM 1 **BY MR. TRIPPI:**

03:14PM 2 Q. Now, I've asked you about that -- that window of time,
03:14PM 3 and I'm focusing in on 2008 to April 17th, 2018. I know
03:14PM 4 you've said you went back farther, and we've covered that.

03:14PM 5 A. Yes.

03:14PM 6 Q. But in that window of time, was there a portion of time
03:14PM 7 where you were involved in marijuana grow operations with
03:14PM 8 your brother, Tom?

03:14PM 9 A. Yes.

03:14PM 10 Q. And then did you become involved in outdoor marijuana
03:14PM 11 grow operations with Mike Masecchia?

03:14PM 12 A. Yes.

03:14PM 13 Q. All right. I'd like to go back to actually your brother
03:14PM 14 Tom for a moment. Before you said when you got -- when you
03:14PM 15 were 24, you were involved getting houses with him. Was he
03:14PM 16 part of those indoor grow operations?

03:14PM 17 A. Yes, he would help me.

03:14PM 18 Q. And then ultimately did you purchase a -- a warehouse at
03:14PM 19 some point?

03:14PM 20 A. Correct.

03:14PM 21 Q. Where was your warehouse?

03:14PM 22 A. It was two buildings. It was 82 Sycamore and 608
03:14PM 23 Michigan.

03:14PM 24 Q. And when did you -- approximately, when did you purchase
03:15PM 25 those buildings?

03:15PM 1 A. It was 2005.

03:15PM 2 Q. And is that sort of a corner lot?

03:15PM 3 A. Yes.

03:15PM 4 Q. What was your purpose in purchasing those buildings?

03:15PM 5 A. To grow marijuana.

03:15PM 6 Q. So it's a larger space to grow more plants?

03:15PM 7 A. Yes.

03:15PM 8 Q. And because you were gonna be growing marijuana in

03:15PM 9 those -- at those premises, did you purchase the building,

03:15PM 10 and was it put in someone else's name?

03:15PM 11 A. Yes.

03:15PM 12 Q. Do you remember whose name you put it in?

03:15PM 13 A. Sam Tedesco.

03:15PM 14 Q. And who's that?

03:15PM 15 A. My brother-in-law.

03:15PM 16 Q. Is that a common tactic that people trafficking use? Do

03:15PM 17 they put properties in other people's names that are

03:15PM 18 sometimes gonna be associated with the criminal conduct?

03:15PM 19 A. Yes.

03:15PM 20 Q. In particular, that address, was basically the only

03:15PM 21 reason you bought it, to use it to grow marijuana?

03:16PM 22 A. Correct.

03:16PM 23 **MR. TRIPI:** One moment.

03:16PM 24 Ms. Champoux, can we pull up Government Exhibit

03:16PM 25 51A-7.

03:16PM 1 This is in evidence, Your Honor.

03:16PM 2 **BY MR. TRIPPI:**

03:16PM 3 Q. And do you recognize this corner, Mr. Serio?

03:16PM 4 A. Yes.

03:16PM 5 Q. Tell the jury what this is.

03:16PM 6 A. That is 82 Sycamore.

03:16PM 7 Q. And is 608 Michigan sort of set behind it?

03:16PM 8 A. It's -- yeah, to the right, if you're looking at the
03:16PM 9 picture. It's actually on Michigan Street, the 608 Michigan.

03:16PM 10 Q. Do we see that building in this photo, the 608 Michigan
03:16PM 11 building?

03:16PM 12 A. Not really. You can see it a little bit.

03:16PM 13 Q. Can you touch where it is?

03:16PM 14 Okay. So you see a portion of it, right?

03:17PM 15 A. Yes.

03:17PM 16 Q. And then the building in the forefront, can you also
03:17PM 17 circle 82 Sycamore? Okay.

03:17PM 18 **MR. TRIPPI:** Your Honor, may the record reflect he
03:17PM 19 placed a small circle sort of to the right of the photo
03:17PM 20 indicating you can see a portion of a building that's set back
03:17PM 21 behind the building at the forefront of the picture. And then
03:17PM 22 a larger circle around a structure where you see the sign,
03:17PM 23 Sycamore, on the corner.

03:17PM 24 Thank you, Mr. Serio.

03:17PM 25

03:17PM 1 **BY MR. TRIPPI:**

03:17PM 2 Q. Now, would this warehouse remain in play at various
03:17PM 3 points in time as part of your drug operations all the way up
03:17PM 4 through your arrest?

03:17PM 5 A. Yes.

03:17PM 6 Q. We'll get into it in more detail, but at times when you
03:17PM 7 were not growing marijuana at 608 Michigan and 82 Sycamore,
03:17PM 8 did you store drugs in there at times?

03:17PM 9 A. Yes.

03:17PM 10 Q. Did you take delivery of large shipments there?

03:17PM 11 A. Yes.

03:17PM 12 Q. By and large, would it be accurate to say that the
03:18PM 13 majority of the time that you went to 82 Sycamore or 608
03:18PM 14 Michigan, you were doing something in connection with your
03:18PM 15 drug trafficking?

03:18PM 16 A. It depends on what timeframe. I mean, the majority of
03:18PM 17 the time, yes.

03:18PM 18 Q. That's all I'm asking, just as an overview.

03:18PM 19 A. Yes, okay.

03:18PM 20 Q. If you were saying percentages --

03:18PM 21 A. Yeah. Percentage, yes.

03:18PM 22 Q. -- most of the time you were going there, it was drug
03:18PM 23 related?

03:18PM 24 A. Correct.

03:18PM 25 Q. Did you also store things like tools relating to

03:18PM 1 carpentry and things like that in there?

03:18PM 2 A. Yes, yes.

03:18PM 3 Q. Okay. Now, terms of outdoor marijuana grow operations,

03:18PM 4 did you become involved in outdoor marijuana grow operations

03:19PM 5 with Mike Masecchia?

03:19PM 6 A. Yes.

03:19PM 7 Q. Did that sort of begin in and around the 2007 timeframe?

03:19PM 8 A. Well, I was buying marijuana. I wasn't actually going to

03:19PM 9 the places to -- to help them grow it.

03:19PM 10 Q. So it's a little bit after that?

03:19PM 11 A. Yeah, it was in 2015.

03:19PM 12 Q. Okay. So you were the one selling the marijuana from the

03:19PM 13 Masecchia grows?

03:19PM 14 A. Correct.

03:19PM 15 Q. We'll get to that in more detail. But did you also set

03:19PM 16 up indoor marijuana grows for Mr. Masecchia?

03:19PM 17 A. Yes.

03:19PM 18 Q. How many?

03:19PM 19 A. Three.

03:19PM 20 Q. Where were those?

03:19PM 21 A. At John Suppa, Lou Selva's, and this guy named Martino.

03:19PM 22 I'm not sure what his real name is.

03:19PM 23 Q. Do you remember approximately where the John Suppa indoor

03:19PM 24 grow was?

03:19PM 25 A. It was on Hertel in North Buffalo.

03:19PM 1 Q. Hertel Avenue?

03:19PM 2 A. Yes.

03:19PM 3 Q. And -- and in what approximate year did you start the
03:20PM 4 indoor grow at that location?

03:20PM 5 A. It was -- I believe it was late 2008, early 2009.

03:20PM 6 Q. Okay. And is that a location that you kept -- that they
03:20PM 7 kept operating consistently?

03:20PM 8 A. Correct.

03:20PM 9 Q. So once you set up the grow there, it was an operation
03:20PM 10 for how long?

03:20PM 11 A. Till my arrest, I believe.

03:20PM 12 Q. Until April of 2017?

03:20PM 13 A. '17, yes.

03:20PM 14 Q. Okay. And again, I'll get into this in more detail a
03:20PM 15 little bit later on, but approximately what year did you set
03:20PM 16 up the grow in Lou Selva's house?

03:20PM 17 A. It was, I believe, 2013 or '14.

03:20PM 18 Q. And was that at his house at 128 Rebecca Court?

03:20PM 19 A. Yes.

03:20PM 20 Q. And how many years did that stay in operation for?

03:20PM 21 A. As far as I know, till -- actually, no, I think it ended
03:21PM 22 before my arrest. Because at some point, I was storing
03:21PM 23 marijuana there. But then again, I wasn't in the basement,
03:21PM 24 so I don't know.

03:21PM 25 Q. It went on for several -- at least several years that

03:21PM 1 you're aware of?

03:21PM 2 A. Yes, yes.

03:21PM 3 Q. And I think the last person you mentioned setting up an
03:21PM 4 indoor marijuana grow for Masecchia was a person named
03:21PM 5 Martino?

03:21PM 6 A. Correct.

03:21PM 7 Q. And when we say -- when I say "for Masecchia," are you
03:21PM 8 understanding me to mean he asked you to help set up the
03:21PM 9 grows?

03:21PM 10 A. Yes.

03:21PM 11 Q. Okay. Would you be involved in obtaining part of the
03:21PM 12 profits of each of these locations?

03:21PM 13 A. Yes.

03:21PM 14 Q. What was your share of the proceeds from each location?

03:21PM 15 A. It depended. Like in the Suppa one, I was -- we're
03:21PM 16 splitting it three ways for, I think, over a year. And I
03:21PM 17 just -- I didn't like going to a place too often, so I kind
03:21PM 18 of backed off from it. But I was still making money from
03:21PM 19 selling it, though.

03:21PM 20 Q. Okay. So initially, it was a three-way split, and then
03:21PM 21 you just took a portion of the marijuana and distributed it?

03:22PM 22 A. Correct.

03:22PM 23 Q. How about the Selva grow? What was the percentage split
03:22PM 24 there?

03:22PM 25 A. I usually make about 500 off each pound with Martino and

03:22PM 1 Selva. And then eventually with Suppa, that was -- kind of
03:22PM 2 my cut was they would give it to me, and I would make 500
03:22PM 3 pounds off of it.

03:22PM 4 Q. And where was the Martino grow?

03:22PM 5 A. On Norwalk.

03:22PM 6 Q. Where is that located, for those who may not know?

03:22PM 7 A. Hertel and Norwalk. It's in North Buffalo, Hertel
03:22PM 8 Avenue.

03:22PM 9 Q. So the Suppa location was right on Hertel Avenue, the
03:22PM 10 Martino location was off of Hertel Avenue, and Selva's house
03:22PM 11 is not too far off of Hertel Avenue as well, correct?

03:22PM 12 A. Correct.

03:22PM 13 Q. Are we generally talking the North Buffalo portion of the
03:22PM 14 city?

03:22PM 15 A. Yes.

03:22PM 16 Q. Did you also have some -- some close friends that helped
03:22PM 17 you sell the -- the -- the pounds and pounds of marijuana
03:23PM 18 that you were getting, as well as selling cocaine over time?

03:23PM 19 A. Yes.

03:23PM 20 Q. Who was Mark Falzone?

03:23PM 21 A. Friend of mine that would sell cocaine and marijuana.

03:23PM 22 Q. Was he one of your best friends?

03:23PM 23 A. Yes.

03:23PM 24 Q. Who was Mike Moynihan?

03:23PM 25 A. One of my good friends that sold marijuana.

03:23PM 1 Q. Who was Matt LoTempio?

03:23PM 2 A. Another friend of mine that sold marijuana.

03:23PM 3 Q. Who was Chris Baker?

03:23PM 4 A. He sold cocaine and marijuana, a friend of mine.

03:23PM 5 Q. Who was John Robinson?

03:23PM 6 A. He was a friend, but also worked for me when I had a

03:23PM 7 collection agency.

03:23PM 8 Q. And did he sell marijuana?

03:23PM 9 A. Yes.

03:23PM 10 Q. Who was Mario Vacanti?

03:23PM 11 A. He was a friend that sold marijuana.

03:23PM 12 Q. And we've talked about Anthony Gerace, right?

03:23PM 13 A. Yes.

03:23PM 14 Q. Did you also have a sister-in-law named Adrian that would

03:23PM 15 procure marijuana from you and sell it for a period of time?

03:23PM 16 A. Yes.

03:23PM 17 Q. And that was your ex-wife's sister?

03:24PM 18 A. Correct.

03:24PM 19 Q. And for the record, your -- your -- your wife was Adrian

03:24PM 20 Fina, or Lauren Fina?

03:24PM 21 A. Lauren Fina.

03:24PM 22 Q. And Adrian is Adrian Fina?

03:24PM 23 A. Correct.

03:24PM 24 Q. Okay. Now, did you know some people -- and so would it

03:24PM 25 be fair to say that those were many of your distributors for

03:24PM 1 the pounds of marijuana and some of the cocaine?

03:24PM 2 A. Yes.

03:24PM 3 Q. Being a person who's involved in business, would it be
03:24PM 4 accurate to say they were essentially -- formed a portion of
03:24PM 5 your sales team?

03:24PM 6 A. Correct.

03:24PM 7 Q. Is that how you treated this?

03:24PM 8 A. Yes.

03:24PM 9 Q. Just like a business?

03:24PM 10 A. Just like a business.

03:24PM 11 Q. As -- as all these activities are occurring, were you
03:24PM 12 also opening and starting up other businesses?

03:24PM 13 A. Yes.

03:24PM 14 Q. We'll get to those in more detail a little bit later on.

03:24PM 15 But just as an overview, can you tell the jury what types of
03:24PM 16 businesses you were opening up?

03:24PM 17 A. Collection agency, credit card payment processing, and
03:25PM 18 real estate.

03:25PM 19 Q. Now, did you also know some people who were involved in
03:25PM 20 your operations that were close with Joseph Bongiovanni?

03:25PM 21 A. Eventually, I found out that Anthony Gerace was.

03:25PM 22 Q. And how about Lou Selva?

03:25PM 23 A. Yeah, Lou Selva also.

03:25PM 24 Q. What was your understanding of the relationship between
03:25PM 25 Lou Selva and Joseph Bongiovanni?

03:25PM 1 A. That they were best friends.

03:25PM 2 Q. Did you have an understanding of the relationship between

03:25PM 3 Mike Masecchia and Joseph Bongiovanni?

03:25PM 4 A. Yes.

03:25PM 5 Q. What was your understanding of that relationship?

03:25PM 6 A. That they grew up together.

03:25PM 7 Q. Did you believe they -- they were also friends?

03:25PM 8 A. Yes, they were.

03:25PM 9 Q. Did you also have an employee who had a relationship with

03:25PM 10 Mr. Bongiovanni's current wife? I'm referencing Matthew

03:25PM 11 Maglietto.

03:25PM 12 A. Yes.

03:25PM 13 Q. Was he your employee?

03:26PM 14 A. Yes.

03:26PM 15 Q. At the debt collection agency?

03:26PM 16 A. Correct.

03:26PM 17 Q. Were some of the same people that were involved in the

03:26PM 18 trafficking/distribution parts of your business also employed

03:26PM 19 at the debt collection agency?

03:26PM 20 A. Just John Robinson.

03:26PM 21 Q. Did Chris Baker ever work at your debt collection agency?

03:26PM 22 A. No.

03:26PM 23 Q. Did you know anybody who had a close relationship with

03:26PM 24 Bongiovanni's wife, Lindsay?

03:26PM 25 A. Close, as far as --

03:26PM 1 Q. Friendship.

03:26PM 2 A. Friendship.

03:26PM 3 Q. Common friends.

03:26PM 4 A. Maria Miosi.

03:26PM 5 Q. Who is that?

03:26PM 6 A. A friend of my ex-wife's.

03:26PM 7 Q. So your ex-wife, Lauren, your wife at the time of many of

03:26PM 8 these activities, when -- when did she become your wife?

03:26PM 9 When did she become your ex-wife? Let's just frame that.

03:26PM 10 A. 2011. We got married in August of 2011, and then we

03:26PM 11 separated in 2016, but we didn't get divorced until last

03:27PM 12 year.

03:27PM 13 Q. Okay. So Lauren was friends with Maria Miosi, who's

03:27PM 14 friends with the defendant's wife?

03:27PM 15 A. Correct.

03:27PM 16 Q. Did you also have a colleague or someone you knew named

03:27PM 17 Frank Parisi?

03:27PM 18 A. Yes.

03:27PM 19 Q. How did you know that person?

03:27PM 20 A. Just through mutual friends. And then eventually we had

03:27PM 21 some dealings with the collection agency, and he legitimately

03:27PM 22 lent money and borrowed money sometimes.

03:27PM 23 Q. Do you -- do you have an -- an understanding of whether

03:27PM 24 he's also friends with the defendant?

03:27PM 25 A. That, I don't know.

03:27PM 1 Q. Okay. Did you know some other people in common with the
03:27PM 2 defendant as far as you knew?

03:27PM 3 A. I mean, I'm sure I do, but I can't think of offhand.

03:27PM 4 Q. Do you know Wayne Anderson?

03:27PM 5 A. Yes.

03:27PM 6 Q. Do you know a person named Frank Tripi?

03:27PM 7 A. Yes.

03:28PM 8 Q. Do you know a person named Mike Sinatra?

03:28PM 9 A. I don't personally know him. I've heard of him. I don't
03:28PM 10 know him.

03:28PM 11 Q. Do you know a person named Paul Francoforte, Hot Dog?

03:28PM 12 A. Yes.

03:28PM 13 Q. We talked about Frank Burkhart; do you know that person?

03:28PM 14 A. Yes.

03:28PM 15 Q. I'm just going to ask you: A moment ago I asked you what
03:28PM 16 some -- some of the other businesses that you developed over
03:28PM 17 time were. Can you go through those for the jury? And then
03:28PM 18 I think that will take us to our break.

03:28PM 19 A. Yeah. Debt collection -- sorry. Debt collection agency,
03:28PM 20 a payment processing company, and I would buy real estate,
03:28PM 21 buy houses, rental properties.

03:28PM 22 Q. So did you start a company called Serio Development?

03:28PM 23 A. Yes.

03:28PM 24 Q. Were you the principal in that company?

03:28PM 25 A. Yes.

03:28PM 1 Q. Did you have any partners in the company?

03:28PM 2 A. No.

03:28PM 3 Q. And what was the nature of that business?

03:28PM 4 A. That was real estate.

03:28PM 5 Q. When did you start Serio Development?

03:28PM 6 A. It was 2011.

03:28PM 7 Q. In part, did you use that business to launder any of your
03:29PM 8 drug proceeds?

03:29PM 9 A. Yes.

03:29PM 10 Q. How did you do that?

03:29PM 11 A. By buying properties and then using cash to buy the
03:29PM 12 materials.

03:29PM 13 Q. So you'd buy the property, use drug money to buy
03:29PM 14 material, renovate it, and then resell?

03:29PM 15 A. Correct. Or I would just keep them as rentals and just
03:29PM 16 make the money off that, too.

03:29PM 17 Q. And you can charge higher rents once you make them look
03:29PM 18 nicer?

03:29PM 19 A. Correct.

03:29PM 20 Q. Did you have a company called Secure Billing Services?

03:29PM 21 A. Yes.

03:29PM 22 Q. What was that company involving?

03:29PM 23 A. It was a payment processing company for -- that processed
03:29PM 24 payments for other debt collections that couldn't can get
03:29PM 25 their own processing.

03:29PM 1 Q. Was that located in Kenmore?

03:29PM 2 A. I believe it was Delaware and West Girard.

03:29PM 3 Q. And at that time, did you -- did you need to have

03:29PM 4 essentially a clean record in order to get the type of

03:29PM 5 authorization to be a payment processor?

03:29PM 6 A. Correct.

03:30PM 7 Q. So prior to your involvement in this case, you -- you

03:30PM 8 were not a convicted felon, right?

03:30PM 9 A. No.

03:30PM 10 Q. So that enabled you to become a payment processor for

03:30PM 11 other companies?

03:30PM 12 A. Yes.

03:30PM 13 Q. And did you have to have good credit for that?

03:30PM 14 A. Yes.

03:30PM 15 Q. Did you use Secure Billing at all to launder any money?

03:30PM 16 A. I believe one time. I'm not sure if it was Secure

03:30PM 17 Billing or Roycroft or Serio Development.

03:30PM 18 Q. So you're a little -- you're unsure if you used Secure

03:30PM 19 Billing?

03:30PM 20 A. Yeah, I'm not sure. But I took a quarter million dollars

03:30PM 21 from -- I forgot what his name was, I wrote him clean checks.

03:30PM 22 Q. If I said a name, would it potentially refresh your

03:30PM 23 memory?

03:30PM 24 A. Yes, sir.

03:30PM 25 Q. Joseph Plevniak?

03:30PM 1 A. Correct.

03:30PM 2 Q. Okay. So he gave you monies for drugs that you had sold
03:30PM 3 him?

03:30PM 4 A. No, no, no. He had money that he made from selling
03:30PM 5 drugs, and then he came to me through Mario Vacanti to clean
03:31PM 6 the money for him.

03:31PM 7 Q. And you wrote checks out of your company?

03:31PM 8 A. Correct.

03:31PM 9 Q. And then Upstate Management?

03:31PM 10 We have two more, Judge.

03:31PM 11 Upstate Management, what was that company?

03:31PM 12 A. It was a collection agency.

03:31PM 13 Q. Did you use that company at all to launder any drug
03:31PM 14 money?

03:31PM 15 A. No.

03:31PM 16 Q. Was that one you were involved in with involvement with
03:31PM 17 with your brother?

03:31PM 18 A. Yes. I was only involved with that for either 2010 and
03:31PM 19 2011 to 2013.

03:31PM 20 Q. And were you the one who basically provided the startup
03:31PM 21 money for that business?

03:31PM 22 A. Yes.

03:31PM 23 Q. Is that the one where John Robinson had become a manager?

03:31PM 24 A. Correct.

03:31PM 25 Q. And lastly, what was Roycroft?

03:31PM 1 A. That was the collection agency that I opened later on
03:31PM 2 after me and my brother split.

03:31PM 3 Q. And when did you start that company?

03:31PM 4 A. I want to say it was 2014 or 2015.

03:31PM 5 Q. Did you use that business at all for laundering any of
03:31PM 6 your drug proceeds?

03:31PM 7 A. Possibly with that, Joe Plevniak.

03:31PM 8 Q. Same type of ideas?

03:31PM 9 A. Yes.

03:31PM 10 Q. He gives you drug money, and you write him checks from
03:31PM 11 the company?

03:31PM 12 A. Correct.

03:31PM 13 Q. Okay.

03:32PM 14 **MR. TRIPI:** Judge, I think we can take our break.

03:32PM 15 **THE COURT:** Okay. We'll take our afternoon break.

03:32PM 16 Remember my instructions. Don't talk about the case,
03:32PM 17 even with each other. Don't make up your mind.

03:32PM 18 See you back here in about 15 minutes or so.

03:32PM 19 (Jury excused at 3:32 p.m.)

03:32PM 20 **THE COURT:** Anything for the record before we break?

03:32PM 21 **MR. TRIPI:** Nothing from the government.

03:32PM 22 **MR. MacKAY:** No, Your Honor.

03:32PM 23 **THE COURT:** Good. See you folks in about 15 minutes.

03:32PM 24 **MR. TRIPI:** Thank you, Your Honor.

03:32PM 25 **THE CLERK:** All rise.

03:32PM 1 (Off the record at 3:32 p.m.)

03:51PM 2 (Back on the record at 3:51 p.m.)

03:51PM 3 (Jury not present.)

03:51PM 4 **THE CLERK:** All rise.

03:51PM 5 **THE COURT:** Please be seated.

03:51PM 6 **THE CLERK:** We are back on the record for the

03:51PM 7 continuation of the jury trial in case number 19-cr-227,

03:51PM 8 United States of America versus Joseph Bongiovanni.

03:51PM 9 All counsel and parties are present.

03:51PM 10 **THE COURT:** Anything from the defense?

03:51PM 11 **MR. MacKAY:** No, Your Honor.

03:51PM 12 **THE COURT:** Anything from the government.

03:51PM 13 **MR. TRIPI:** No, thank you, Judge.

03:51PM 14 **THE COURT:** Let's bring them back, please, Pat.

03:52PM 15 (Jury seated at 3:52 p.m.)

03:52PM 16 **THE COURT:** Okay. The record will reflect that all

03:53PM 17 our jurors are present again.

03:53PM 18 I remind the witness that he's still under oath.

03:53PM 19 And Mr. Tripi, you may continue.

03:53PM 20 **MR. TRIPI:** Thank you, Your Honor.

03:53PM 21 **BY MR. TRIPI:**

03:53PM 22 Q. Mr. Serio, before the break, we went through some of the

03:53PM 23 businesses that you had started. I'd like to pivot to

03:53PM 24 another topic, generally. As you -- over time, did you begin

03:53PM 25 to gamble at casinos frequently?

03:53PM 1 A. Yes.

03:53PM 2 Q. When would you estimate you started going to casinos
03:53PM 3 frequently?

03:53PM 4 A. Mid 2011.

03:53PM 5 Q. And was -- was that one of the years you -- you made a
03:53PM 6 lot of money in the drug trade?

03:53PM 7 A. Yes.

03:53PM 8 Q. How much money would you estimate you made in 2011 from
03:53PM 9 selling drugs?

03:53PM 10 A. Probably \$1 million.

03:53PM 11 Q. How often would you go to the casino beginning around
03:53PM 12 2011?

03:53PM 13 A. Every day.

03:53PM 14 Q. Were you gambling high stakes?

03:54PM 15 A. Yes.

03:54PM 16 Q. Did you go to a number of different casinos?

03:54PM 17 A. Yes.

03:54PM 18 Q. What different casinos did you go to?

03:54PM 19 A. Seneca Niagara. Niagara in Canada. Various ones in
03:54PM 20 Vegas. Mohegan Sun in Pennsylvania. Mount Airy in
03:54PM 21 Pennsylvania. Atlantic City, Tropicana.

03:54PM 22 Q. Was some of the money that you were gambling with money
03:54PM 23 that you made selling drugs?

03:54PM 24 A. Yes.

03:54PM 25 Q. Is that another way that you would clean the money?

03:54PM 1 A. Yes.

03:54PM 2 Q. Did you win when you went to the casino?

03:54PM 3 A. For a while, I was winning an a lot.

03:54PM 4 Q. We mentioned that person, Paul Francoforte, Hot Dog,

03:54PM 5 earlier. Was that someone you would gamble with from time to

03:54PM 6 time?

03:54PM 7 A. Yes.

03:54PM 8 Q. Did you go on a gambling trip with him to the Poconos?

03:55PM 9 A. Yes.

03:55PM 10 Q. Do you remember what year that was?

03:55PM 11 A. That, I don't. Maybe 2014? Around then.

03:55PM 12 Q. Who went with you on that trip?

03:55PM 13 A. I think it was my wife Lauren, Hot Dog or Paul

03:55PM 14 Francoforte, and his girlfriend.

03:55PM 15 Q. Okay. Did John Robinson and Adrian go on that trip, if

03:55PM 16 you recall?

03:55PM 17 A. I can't recall. They might have.

03:55PM 18 Q. Okay. I'd like to fast forward to your 2017 arrest on

03:55PM 19 April 18th, okay?

03:55PM 20 A. Yes.

03:55PM 21 Q. On that day, were you arrested and did you ultimately

03:55PM 22 have your property searched by the Erie County Sheriff's

03:55PM 23 Office and who you later learned were also the FBI?

03:55PM 24 A. Yes.

03:55PM 25 Q. When you were initially arrested, did you believe it was

03:56PM 1 just an Erie County Sheriff's Office operation?

03:56PM 2 A. Yeah, I -- I really had no idea who it was.

03:56PM 3 Q. Okay. What properties of yours were searched --

03:56PM 4 withdrawn.

03:56PM 5 What properties were searched that day?

03:56PM 6 A. 697 Lebrun. And I'm not sure what the address is, but a

03:56PM 7 property that I was renting on Grimsby in Tonawanda.

03:56PM 8 Q. Does 91 sound right?

03:56PM 9 A. Yes.

03:56PM 10 Q. And when you were taken into custody, initially arrested,

03:56PM 11 whose house were you at?

03:56PM 12 A. Kelly Brace's.

03:56PM 13 Q. Did he have a house at 370 Huntington?

03:56PM 14 A. Yes.

03:56PM 15 Q. Where is that?

03:56PM 16 A. In North Buffalo.

03:56PM 17 Q. As just an overview of the items, we'll go through it in

03:56PM 18 more detail later, but as sort of an overview of the items

03:56PM 19 seized from your house at 697 Lebrun and the property you had

03:56PM 20 at 91 Grimsby, did -- did that include kilograms of

03:56PM 21 marijuana?

03:56PM 22 A. Yes.

03:56PM 23 Q. Did that include cocaine?

03:56PM 24 A. Yes.

03:56PM 25 Q. Did that include various pills including fentanyl?

03:56PM 1 A. Yes.

03:56PM 2 Q. Did that include a firearm?

03:57PM 3 A. Yes.

03:57PM 4 Q. Ammunition?

03:57PM 5 A. Yes.

03:57PM 6 Q. Was your Range Rover searched?

03:57PM 7 A. Yes.

03:57PM 8 Q. Did they recover cellular phones?

03:57PM 9 A. Yes.

03:57PM 10 Q. Currency?

03:57PM 11 A. Yes.

03:57PM 12 Q. About 22,000 in cash?

03:57PM 13 A. I believe so.

03:57PM 14 Q. Other items associated with narcotics distribution like

03:57PM 15 vacuum sealers and plastic wraps?

03:57PM 16 A. Yes.

03:57PM 17 Q. Now, I'd like to focus you in on when you were initially

03:57PM 18 approached by law enforcement at Kelly Brace's house. Okay?

03:57PM 19 A. Yes.

03:57PM 20 Q. Can you describe for the jury what happened? So you get

03:57PM 21 to Kelly Brace's house. Described what happened.

03:57PM 22 A. I pulled my vehicle in the backyard. I take out a

03:57PM 23 garbage bag of marijuana. Me and Kelly are talking. I

03:57PM 24 believe he went in the house for a minute to grab the money.

03:57PM 25 And then when he came back out, that's when law enforcement

03:57PM 1 arrested us.

03:57PM 2 Q. And where did you -- where did you -- where did you pack
03:57PM 3 the garbage bag full of marijuana that you brought to Kelly
03:58PM 4 Brace's house?

03:58PM 5 A. It was between Grimsby and Lebrun.

03:58PM 6 Q. Okay. So you had some at Grimsby, some at Lebrun?

03:58PM 7 A. Correct.

03:58PM 8 Q. You drove your Range Rover from one property to another?

03:58PM 9 A. Yes.

03:58PM 10 Q. How many total pounds of marijuana did you have in that
03:58PM 11 garbage bag?

03:58PM 12 A. I believe 19.

03:58PM 13 Q. Was it a big, black garbage bag?

03:58PM 14 A. Yes.

03:58PM 15 Q. Now, after the police sort of -- they ascend upon you --

03:58PM 16 A. Yes.

03:58PM 17 Q. Is this in the backyard?

03:58PM 18 A. Correct.

03:58PM 19 Q. At that point, are you -- are you brought into the
03:58PM 20 kitchen of Kelly Brace's house?

03:58PM 21 A. Yes.

03:58PM 22 Q. Were you upset in that moment?

03:58PM 23 A. Very upset.

03:58PM 24 Q. Why were you upset?

03:58PM 25 A. Because I was being arrested.

03:58PM 1 Q. When you were arrested, did you ask for somebody?

03:58PM 2 A. I asked for Joe Bongiovanni.

03:58PM 3 Q. Why did ask for him?

03:58PM 4 A. I just figured I wanted to talk to him to see what was
03:59PM 5 going on.

03:59PM 6 Q. Was he the one that was supposed to be protecting you?

03:59PM 7 A. Yes.

03:59PM 8 Q. When you asked an officer for Joe Bongiovanni, did that
03:59PM 9 officer respond by asking you a question?

03:59PM 10 A. Yes.

03:59PM 11 Q. What did that officer ask you?

03:59PM 12 A. He said, do you work with him?

03:59PM 13 Q. When that officer said "do you work with him," what did
03:59PM 14 you understand the officer to be asking you?

03:59PM 15 A. That if I was an informant for him.

03:59PM 16 Q. At what point -- at that point, what did you do?

03:59PM 17 A. I didn't say -- I believe I said I wanted my lawyer.

03:59PM 18 Q. Ultimately, after you were arrested at Kelly Brace's

03:59PM 19 house, did you learn that your houses at 697 Lebrun and 91
03:59PM 20 Grimsby were also searched?

03:59PM 21 A. Yes.

03:59PM 22 Q. Did you learn that your Range Rover was taken to the
03:59PM 23 Sheriff's and searched?

03:59PM 24 A. Yes.

03:59PM 25 Q. Did you learn all that sort of once you were charged in

03:59PM 1 federal court?

03:59PM 2 A. Yeah. I believe like a -- well, when I was at the
04:00PM 3 sheriff's office, they had a list of everything that they --
04:00PM 4 they seized. And I briefly looked at it. But I was so --
04:00PM 5 starting withdrawing. I was kind of incoherent for like a
04:00PM 6 week.

04:00PM 7 Q. By that point, were you addicted to substances?

04:00PM 8 A. Yes.

04:00PM 9 Q. What were you addicted to?

04:00PM 10 A. Cocaine, fentanyl, and Adderall.

04:00PM 11 Q. If you didn't have an opiate, did you start to get sick?

04:00PM 12 A. Very sick.

04:00PM 13 Q. If you did have opiates, did that keep you from getting
04:00PM 14 sick?

04:00PM 15 A. Yes.

04:00PM 16 Q. So you started going through withdrawals in custody?

04:00PM 17 A. Yes.

04:00PM 18 Q. Were you charged in federal court by what's called a
04:00PM 19 federal complaint?

04:00PM 20 A. Yes.

04:00PM 21 Q. Did you go to court sort of the next day after spending a
04:00PM 22 night in jail?

04:00PM 23 A. Yes.

04:00PM 24 Q. Generally -- I don't want to get into what the judge said
04:00PM 25 and lawyers said, but generally tell the jury what happens

04:01PM 1 the next day in court.

04:01PM 2 A. You get arraigned. They -- I really don't remember it
04:01PM 3 too much.

04:01PM 4 Q. Okay.

04:01PM 5 A. All I know is I was charged.

04:01PM 6 Q. Did you review the federal complaint with your attorney?

04:01PM 7 A. I didn't.

04:01PM 8 Q. Who was your attorney?

04:01PM 9 A. Herb Greenman.

04:01PM 10 Q. He's your attorney still, right?

04:01PM 11 A. Correct.

04:01PM 12 Q. By that point, though, once you were charged and were in
04:01PM 13 court the next day, did you start to develop an awareness
04:01PM 14 that the agencies that were involved in your arrest were the
04:01PM 15 Erie County Sheriffs and the FBI?

04:01PM 16 A. Yes.

04:01PM 17 Q. Was this sort of the peak of your addiction?

04:01PM 18 A. Yes.

04:01PM 19 Q. Let's talk about that for a moment.

04:01PM 20 A. Okay.

04:01PM 21 Q. We've talked about that window of time, 2008 to
04:01PM 22 April 18th of 2017 when you were arrested; do you remember
04:01PM 23 that?

04:01PM 24 A. Yes.

04:01PM 25 Q. Where would you pinpoint sort of the height of your drug

04:01PM 1 usage in that window?

04:01PM 2 A. Started around 2012, '13. It wasn't bad, but it started
04:02PM 3 going down. But in 2016 when my wife left, there was no one
04:02PM 4 to keep my in check, so I kind of went off the rails.

04:02PM 5 Q. So you start to use more in 2016 --

04:02PM 6 A. Yes.

04:02PM 7 Q. -- into the 2017 time period?

04:02PM 8 A. Correct.

04:02PM 9 Q. When did she leave in 2016, just to --

04:02PM 10 A. I believe it was late spring, early summer.

04:02PM 11 Q. Okay. Once -- once you learned that the agencies that
04:02PM 12 were involved in your arrest were the Sheriff -- Erie County
04:02PM 13 Sheriffs and the FBI, did the fact that you got arrested make
04:02PM 14 more sense to you?

04:02PM 15 A. Yes, a little bit.

04:02PM 16 Q. Now, even though late spring 2016 or early summer 2016,
04:02PM 17 into your arrest in April of 2017, is sort of the height of
04:03PM 18 your addiction --

04:03PM 19 A. Yes.

04:03PM 20 Q. -- were you still able to keep track of your money?

04:03PM 21 A. Yes.

04:03PM 22 Q. Were you still able to run your businesses?

04:03PM 23 A. Yes.

04:03PM 24 Q. Were you still, in your view, a good businessman?

04:03PM 25 A. Yes.

04:03PM 1 Q. Did you still pay attention to detail?

04:03PM 2 A. Very much.

04:03PM 3 Q. How were you able to do that even though you had a drug
04:03PM 4 addiction?

04:03PM 5 A. Well, business is more like second nature, where it's --
04:03PM 6 my problem is more in my personal decisions that I made. I
04:03PM 7 never not made money, so, even through my addiction I was
04:03PM 8 still making a lot of money. I was still on point, because
04:03PM 9 it was -- it was more concrete what I had to do.

04:03PM 10 Q. Would you do -- would you take steps, in your mind, to
04:03PM 11 keep yourself sharp when you had something drug-trafficking
04:03PM 12 related to do?

04:03PM 13 A. Yes.

04:03PM 14 Q. What would you do?

04:03PM 15 A. I would do less opiates and more cocaine.

04:03PM 16 Q. Why did you think that that was helpful?

04:03PM 17 A. Well, it would wake me up a little bit.

04:03PM 18 Q. Have you described it before as leveling you off?

04:04PM 19 A. Yes.

04:04PM 20 Q. What does that mean?

04:04PM 21 A. It means bringing you back to normalcy.

04:04PM 22 Q. By April 18th, 2017, through your ability to move drugs
04:04PM 23 and obtain sources of supply, did you help a lot of people
04:04PM 24 make a lot of money over a lengthy period of time?

04:04PM 25 A. Yes.

04:04PM 1 Q. Did that include Mike Masecchia?

04:04PM 2 A. Yes.

04:04PM 3 Q. We'll get into that in more detail in a moment.

04:04PM 4 Did you go through withdrawal, though, in jail?

04:04PM 5 A. Yes, severely.

04:04PM 6 Q. Describe that process for the jury.

04:04PM 7 A. It's like having the worst flu and panic attacks at the

04:04PM 8 same time for -- I think it was almost two weeks. And

04:04PM 9 constant twitching. You can't sleep because you're twitching

04:04PM 10 so much. Throwing up. Just not a good experience.

04:04PM 11 Q. Roughly ten days or so after you were arrested,

04:04PM 12 April 27th, 2017, I guess that might be nine days, did

04:04PM 13 you -- did you engage in your first proffer interview with

04:05PM 14 the FBI?

04:05PM 15 A. Yes.

04:05PM 16 Q. And is a proffer interview basically an interview you go

04:05PM 17 to with your attorney, it's governed by the terms of the

04:05PM 18 document, and you sit with law enforcement and prosecutors to

04:05PM 19 talk to them?

04:05PM 20 A. Yes.

04:05PM 21 Q. Now, at that point in your life, I'm just going to ask

04:05PM 22 you straight up. If you got out of jail, did you intend to

04:05PM 23 go right back to drug trafficking at that point?

04:05PM 24 A. At that point? Yes.

04:05PM 25 Q. Did you go into that proffer with a certain strategy in

04:05PM 1 your mind?

04:05PM 2 A. Yes.

04:05PM 3 Q. What was your strategy going into that April 27th, 2017
04:05PM 4 proffer?

04:05PM 5 A. Kind of deflect from my friends and the people I was
04:05PM 6 dealing with, and put the focus more on the distributors in
04:05PM 7 Canada.

04:05PM 8 Q. Why did you want to keep the focus off your friends that
04:05PM 9 were distributing with you locally and put the focus on your
04:05PM 10 supplier in Canada?

04:05PM 11 A. There's a few reasons. It's -- doesn't look good to be
04:06PM 12 an informant. And they were friends that I've known for a
04:06PM 13 long time, I didn't want to inform on them, and maybe some
04:06PM 14 day continue doing business.

04:06PM 15 Q. By that, you mean drug business?

04:06PM 16 A. Yes.

04:06PM 17 Q. Were you confident you could develop another source of
04:06PM 18 supply?

04:06PM 19 A. Yes.

04:06PM 20 Q. At that point, was your supplier Jarrett Guy?

04:06PM 21 A. Correct.

04:06PM 22 Q. Based out of Vancouver, Canada?

04:06PM 23 A. Yes.

04:06PM 24 Q. So he -- he's located a long, long way away from the
04:06PM 25 agents that were questioning you?

04:06PM 1 A. Yes.

04:06PM 2 Q. At the time you went into that proffer, did you have any
04:06PM 3 intention of telling investigators that you were working with
04:06PM 4 Mike Masecchia who had a reputation of being connected to
04:06PM 5 Italian Organized Crime?

04:06PM 6 A. No.

04:06PM 7 Q. Did you have any intention of talking about a DEA agent
04:06PM 8 who you had been bribing on your payroll?

04:06PM 9 A. No.

04:06PM 10 Q. Was your -- was it your intention to protect that
04:06PM 11 information?

04:06PM 12 A. Yes.

04:06PM 13 Q. Were you also trying to protect people, close friends of
04:07PM 14 yours that were in your inner circle?

04:07PM 15 A. Yes.

04:07PM 16 Q. Was that some of the people we talked about earlier?

04:07PM 17 A. Correct.

04:07PM 18 Q. As you got through that first proffer, did your plan sort
04:07PM 19 of work?

04:07PM 20 A. It did.

04:07PM 21 Q. Did the people who -- the investigators and the
04:07PM 22 prosecutor in that first proffer press you on anything
04:07PM 23 locally?

04:07PM 24 A. No.

04:07PM 25 Q. As time went on, did you come in for more interviews?

04:07PM 1 A. Yes.

04:07PM 2 Q. As time went on, did your plan unravel over a series of
04:07PM 3 additional proffer interviews?

04:07PM 4 A. It did.

04:07PM 5 Q. Describe for the jury how your plan unraveled.

04:07PM 6 A. Well, each time I was questioned, I would answer the

04:07PM 7 questions, but leave out or not or give information that

04:07PM 8 wasn't asked. And then eventually, I had to come clean

04:07PM 9 because they knew everything.

04:07PM 10 Q. Over time, did the questions get more focused?

04:08PM 11 A. Yes.

04:08PM 12 Q. More pointed?

04:08PM 13 A. Correct.

04:08PM 14 Q. Did the questions turn more to your associations locally
04:08PM 15 here in Buffalo?

04:08PM 16 A. Yes.

04:08PM 17 Q. Eventually, do you remember being in a proffer July 20th,
04:08PM 18 2018, in the U.S. Attorney's Office where you were being
04:08PM 19 asked questions about Special Agent Curtis Ryan?

04:08PM 20 A. Yes.

04:08PM 21 Q. Do you remember him being focused on Peter and Anthony
04:08PM 22 Gerace in his questioning? Not what you said, but what his
04:08PM 23 questions were?

04:08PM 24 A. Do I remember what his questions were?

04:08PM 25 Q. Do you remember that general topic?

04:08PM 1 A. Yes. Yes.

04:08PM 2 Q. In that particular interview, was that the first time
04:08PM 3 that you indicated that Bongiovanni provided information?

04:08PM 4 A. Correct.

04:08PM 5 Q. Did you indicate in that interview that Bongiovanni
04:08PM 6 provided information to Anthony Gerace about informants R.K.
04:09PM 7 and T.S.?

04:09PM 8 A. Yes.

04:09PM 9 Q. Now when you did that, when you said that was Anthony
04:09PM 10 Gerace, did you swap Anthony out for you?

04:09PM 11 A. Yes.

04:09PM 12 Q. In truth and in fact, were you the one who got that
04:09PM 13 information?

04:09PM 14 A. Yes.

04:09PM 15 Q. But at the time, that's what you said?

04:09PM 16 A. Yes.

04:09PM 17 Q. After that July 20th, 2018 proffer, did more proffers
04:09PM 18 happen over time?

04:09PM 19 A. Yes.

04:09PM 20 Q. Eventually, did you acknowledge that it was in fact you
04:09PM 21 who received that information?

04:09PM 22 A. Correct.

04:09PM 23 Q. Did you go into the grand jury on March 7th, 2019, so
04:09PM 24 months, many months into the next year later?

04:09PM 25 A. Yes.

04:09PM 1 Q. Now, by that point in that grand jury testimony, were you
04:09PM 2 totally honest as to the amount of total bribe payments you
04:09PM 3 made to Bongiovanni?

04:09PM 4 A. No.

04:09PM 5 Q. Why not?

04:09PM 6 A. Wanted to kind of minimize it, so, I mean, it's -- I
04:10PM 7 heard that you get a -- was it a discovery? So when Mike got
04:10PM 8 his discovery, seeing that I kind of minimized it, maybe he
04:10PM 9 wouldn't be as mad.

04:10PM 10 Q. Let's break that down just a little bit. So when you say
04:10PM 11 you minimized it --

04:10PM 12 A. Yes.

04:10PM 13 Q. -- did you minimize the amount of bribes that you paid to
04:10PM 14 the defendant?

04:10PM 15 A. Yes.

04:10PM 16 Q. Significantly?

04:10PM 17 A. Significantly.

04:10PM 18 Q. And you said you -- you did that so if Mike got his
04:10PM 19 discovery?

04:10PM 20 A. Yes.

04:10PM 21 Q. By that point in time, based on things that you had said,
04:10PM 22 did you have a belief that eventually Mike Masecchia would be
04:10PM 23 charged?

04:10PM 24 A. Yes.

04:10PM 25 Q. Is that what you're referencing when you said you wanted

04:10PM 1 to minimize what you said?

04:10PM 2 A. Correct.

04:10PM 3 Q. Why did you want to minimize the amount that you had
04:10PM 4 explained that Mr. --

04:10PM 5 A. I felt that if I --

04:10PM 6 Q. Let me finish the question, sorry.

04:10PM 7 -- that Mr. Masecchia helped you bribe Bongiovanni, why
04:10PM 8 did you want to minimize that amount?

04:10PM 9 A. I feel like if it was just a few times, it wouldn't be as
04:11PM 10 a big of a deal as what actually happened.

04:11PM 11 Q. I'd like to fast forward from your March 7th, 2019,
04:11PM 12 testimony. Eventually, in early October of 2019, focus you
04:11PM 13 in on that timeframe.

04:11PM 14 A. Yes.

04:11PM 15 Q. Did you go back in the grand jury?

04:11PM 16 A. Yes.

04:11PM 17 Q. By that point in time, did you -- did you describe the
04:11PM 18 actual amount?

04:11PM 19 A. Correct.

04:11PM 20 Q. And that was the quarter million dollars you told this
04:11PM 21 jury about?

04:11PM 22 A. Yes.

04:11PM 23 Q. Now, by that point in time, did you learn before, prior
04:11PM 24 to October 2019, that Mike Masecchia and Lou Selva's houses
04:12PM 25 had both been raided?

04:12PM 1 A. Yes.

04:12PM 2 Q. Had you heard about that?

04:12PM 3 A. Yes.

04:12PM 4 Q. Did anyone ever tell you anything specifically that Mike

04:12PM 5 Masecchia or Lou Selva said about you?

04:12PM 6 A. No.

04:12PM 7 Q. Did you know whether one or either of them were talking?

04:12PM 8 A. No.

04:12PM 9 Q. Did questions to you get more specific?

04:12PM 10 A. Yes.

04:12PM 11 Q. Did anyone tell you what amounts to say?

04:12PM 12 A. No.

04:12PM 13 Q. Are you clean as you sit here today?

04:12PM 14 A. Yes.

04:12PM 15 Q. How long have you been clean from any drugs or alcohol?

04:12PM 16 A. Seven and a half years.

04:12PM 17 Q. What's your clean date, do you know?

04:12PM 18 A. My date of my arrest, April 18th, 2017.

04:12PM 19 Q. Is your mindset different today than when you got

04:13PM 20 arrested?

04:13PM 21 A. Yes, very different.

04:13PM 22 Q. Are you going to play games with the jury like you did

04:13PM 23 the law enforcement and pick and choose what you answer

04:13PM 24 truthfully?

04:13PM 25 A. No.

04:13PM 1 **MR. MacKAY:** Objection.

04:13PM 2 **THE COURT:** Sustained.

04:13PM 3 **BY MR. TRIPPI:**

04:13PM 4 Q. Are you going to tell the complete truth to this jury?

04:13PM 5 A. Yes.

04:13PM 6 Q. Are you going to protect anybody?

04:13PM 7 A. No.

04:13PM 8 Q. Are you going to withhold any information?

04:13PM 9 A. Nope.

04:13PM 10 Q. All right. I'd like to talk -- as you sit here,

04:13PM 11 you're -- you're now a federally convicted felon; is that
04:13PM 12 right?

04:13PM 13 A. Yes.

04:13PM 14 Q. As you sit there, are you currently awaiting sentencing

04:13PM 15 based upon convictions that you have in this matter for

04:13PM 16 possession with intent to distribute cocaine and unlawful

04:13PM 17 possession of firearm. And when I say "in this matter," I

04:13PM 18 mean what you're here to talk about.

04:13PM 19 A. Correct.

04:13PM 20 Q. Okay. Are you looking at a substantial prison sentence
04:13PM 21 potentially?

04:13PM 22 A. Yes.

04:13PM 23 Q. Have you ever been -- other than that case, have you ever
04:14PM 24 been to jail before?

04:14PM 25 A. No.

04:14PM 1 Q. As part of your plea, did you admit to possessing all the
04:14PM 2 drugs, money, and firearm evidence that law enforcement
04:14PM 3 seized when they searched your properties in April of 2017?

04:14PM 4 A. Yes.

04:14PM 5 Q. Have you forfeited to the federal government a lot of
04:14PM 6 money?

04:14PM 7 A. Yes.

04:14PM 8 Q. As part of that, did you have to sell your mansion and
04:14PM 9 forfeit the net proceeds of the sale amount?

04:14PM 10 A. Yes.

04:14PM 11 Q. Did you have to sell another property that you had an
04:14PM 12 ownership interest in at 626 Richmond in Buffalo, New York,
04:14PM 13 and forfeit your interest in that property, the money you
04:14PM 14 made?

04:14PM 15 A. Yes, yes.

04:14PM 16 Q. Did you also forfeit the money that was seized from you,
04:14PM 17 your vehicle, and a duffle bag that belonged to you at 370
04:14PM 18 Huntington?

04:14PM 19 A. Yes.

04:14PM 20 Q. In total, did you forfeit to the federal government about
04:14PM 21 \$596,601.69?

04:14PM 22 A. Yes.

04:14PM 23 Q. Now, does your plea agreement contain a cooperation
04:15PM 24 agreement?

04:15PM 25 A. Yes.

04:15PM 1 Q. Do you know what your sentence will be as you sit here
04:15PM 2 today?

04:15PM 3 A. No.

04:15PM 4 Q. Ultimately, who is your sentence up to?

04:15PM 5 A. The judge.

04:15PM 6 Q. Who's the Judge in your case?

04:15PM 7 A. Judge Sinatra.

04:15PM 8 Q. Do you have any guarantee of what sentence the judge will
04:15PM 9 impose?

04:15PM 10 A. No.

04:15PM 11 Q. As you sit here up there, are you required to testify in
04:15PM 12 any particular way?

04:15PM 13 A. No.

04:15PM 14 Q. What is your obligation as you sit in that chair?

04:15PM 15 A. To tell the truth.

04:15PM 16 Q. Now, at some point after you were arrested, and at some
04:15PM 17 point after you first started proffering, through your
04:15PM 18 attorney, did you tell FBI agents where they could find more
04:15PM 19 of your drugs?

04:15PM 20 A. Yes.

04:15PM 21 Q. What type of drugs did the Sheriffs and the FBI not find
04:16PM 22 that you had?

04:16PM 23 A. MDMA.

04:16PM 24 Q. Is that that 2 kilos we talked about before?

04:16PM 25 A. Correct.

04:16PM 1 Q. Where were you storing that MDMA?

04:16PM 2 A. At 82 Sycamore Street.

04:16PM 3 **MR. TRIPI:** Let's pull up Exhibit 51A-7 again. A-7.

04:16PM 4 **BY MR. TRIPI:**

04:16PM 5 Q. This location?

04:16PM 6 A. Yes.

04:16PM 7 Q. So there were 2 kilograms of MDMA in there?

04:16PM 8 A. Correct.

04:16PM 9 Q. How long had that been sitting there?

04:16PM 10 A. After my arrest?

04:16PM 11 Q. No, up until your arrest.

04:16PM 12 A. Maybe a year.

04:16PM 13 Q. I'm going to hand you up Government Exhibits 51A-1,

04:16PM 14 51A-2, 15A-3, 51A-4, 51A-5, and 51A-6.

04:17PM 15 **MR. TRIPI:** Can you see these, Mr. MacKay?

04:17PM 16 Okay. Handing up those exhibits, Your Honor.

04:17PM 17 **BY MR. TRIPI:**

04:17PM 18 Q. Take a moment to look through those, and when you're

04:17PM 19 done, look back up at me.

04:17PM 20 Do you recognize those exhibits -- those photos depicted
04:17PM 21 in those exhibits?

04:17PM 22 A. Yes.

04:17PM 23 Q. What do you recognize that to be, generally?

04:17PM 24 A. MDMA.

04:17PM 25 Q. Is it the locations inside your warehouse at 82 Sycamore

04:17PM 1 where -- where you had stored the MDMA, as well as the MDMA
04:17PM 2 that you had stored inside the building?

04:17PM 3 A. Correct.

04:17PM 4 Q. Do they fairly and accurately depict both the locations
04:18PM 5 within the warehouse that you had at 82 Sycamore as well as
04:18PM 6 the MDMA that you were storing there?

04:18PM 7 A. Yes.

04:18PM 8 Q. Excuse me.

04:18PM 9 **MR. TRIPI:** The government offers Exhibit 51A-1
04:18PM 10 through and inclusive of 51A-6, Your Honor.

04:18PM 11 **MR. MacKAY:** No objection.

04:18PM 12 **THE COURT:** Received without objection.

04:18PM 13 **(GOV Exhibits 51A-1 through 51A-6 were received in evidence.)**

04:18PM 14 **MR. TRIPI:** Ms. Champoux, can we pull up 51A-1.

04:18PM 15 **BY MR. TRIPI:**

04:18PM 16 Q. Mr. Serio, can you tell the jury what they're looking at
04:18PM 17 in this photo?

04:18PM 18 A. It is the doorway where I stored the MDMA, above the
04:18PM 19 doorway behind the drywall.

04:18PM 20 Q. When you enter the warehouse, where do you enter to get
04:18PM 21 to this point?

04:18PM 22 A. If you go -- you enter, and then you go to the right.

04:18PM 23 **MR. TRIPI:** Ms. Champoux, can you put 51A-7 up next
04:18PM 24 to this?

25

04:18PM 1 **BY MR. TRIPI:**

04:18PM 2 Q. Is there a door on the 82 Sycamore warehouse that you

04:18PM 3 would use and make a right-hand turn?

04:19PM 4 A. The door with the cage on it.

04:19PM 5 Q. Can you tap on the screen and it will make a mark?

04:19PM 6 **MR. TRIPI:** May the record reflect that the witness

04:19PM 7 has made an indication, a temporary green dot, on what appears

04:19PM 8 to be a red door with a black cage over it in sort of the

04:19PM 9 middle of the structure that's depicted on Sycamore Street.

04:19PM 10 **BY MR. TRIPI:**

04:19PM 11 Q. Is that a fair description?

04:19PM 12 A. Yes.

04:19PM 13 Q. Is it -- is it a red door with a black cage over it?

04:19PM 14 A. Correct.

04:19PM 15 Q. So you enter that door and you make a right-hand turn,

04:19PM 16 and you come upon the scene that's depicted in 51A-1?

04:19PM 17 A. You go about 50 feet up, and then a right.

04:19PM 18 Q. 50 feet up and then turn right?

04:19PM 19 A. Correct.

04:19PM 20 Q. Using 51A-1, can you show the jury the general area where

04:19PM 21 the -- you had hidden the MDMA?

04:19PM 22 **MR. TRIPI:** So may the record reflect in the 51A-1

04:19PM 23 exhibit he has made a temporary green circle. There's what

04:19PM 24 appears to be an open door with some drywall, and there's an

04:19PM 25 area near the top of the drywall that he has circled.

04:20PM 1 **BY MR. TRIPI:**

04:20PM 2 Q. Is that an accurate description?

04:20PM 3 A. Correct.

04:20PM 4 Q. Okay. Now describe for the jury how you hid that.

04:20PM 5 A. It's kind of bumped out a little bit, so there's a
04:20PM 6 cavity, so I just put it in the cavity.

04:20PM 7 Q. Okay. Let me just clear that.

04:20PM 8 **MR. TRIPI:** Ms. Champoux, you can keep 51A-7 up if
04:20PM 9 you could. And can we go to 51A-2.

04:20PM 10 **BY MR. TRIPI:**

04:20PM 11 Q. Does this show another angle --

04:20PM 12 **MR. TRIPI:** It's okay, we can just put them both down
04:20PM 13 and go to 51A-2, Ms. Champoux.

04:20PM 14 **BY MR. TRIPI:**

04:20PM 15 Q. Does this show the opposite angle of that door that we
04:20PM 16 saw on 51A-1 where you would just walk through?

04:20PM 17 A. Yes.

04:20PM 18 Q. Now we're looking at it from the other direction?

04:20PM 19 A. Yes.

04:20PM 20 **MR. TRIPI:** Let's go to 51A-3.

04:20PM 21 **BY MR. TRIPI:**

04:20PM 22 Q. And what does that depict?

04:20PM 23 A. That is the 2 kilos of MDMA.

04:21PM 24 Q. And is that how it looked when you hid it?

04:21PM 25 A. Yes.

04:21PM 1 **MR. TRIPI:** Let's go to 51A-4.

04:21PM 2 **BY MR. TRIPI:**

04:21PM 3 Q. Does that look like a close-up view of some of the MDMA?

04:21PM 4 A. Yes.

04:21PM 5 Q. And you, in fact, did consent to the search of this
04:21PM 6 location?

04:21PM 7 A. Correct.

04:21PM 8 Q. In other words, you didn't make the FBI get another
04:21PM 9 search warrant, right?

04:21PM 10 A. No.

04:21PM 11 Q. And so you see a note in that photo that says consent
04:21PM 12 search? Do you see that handwritten portion?

04:21PM 13 A. Yes.

04:21PM 14 Q. Is that consistent with your understanding of why your
04:21PM 15 premises at that location was being searched?

04:21PM 16 A. Correct.

04:21PM 17 **MR. TRIPI:** Let's go to 51A-5.

04:21PM 18 **BY MR. TRIPI:**

04:21PM 19 Q. Is this sort of the other kilo?

04:21PM 20 A. Yes.

04:21PM 21 Q. Okay.

04:21PM 22 **MR. TRIPI:** Let's go to 51A-6.

04:21PM 23 **BY MR. TRIPI:**

04:21PM 24 Q. Is that more of the MDMA?

04:21PM 25 A. Yes.

04:21PM 1 Q. I'm going to hand you Government Exhibits 296A and 296B.

04:22PM 2 It's in secure outer packaging.

04:22PM 3 A. Okay.

04:22PM 4 Q. But you can see through it.

04:22PM 5 A. Yes.

04:22PM 6 Q. I'd like you to take a look at these, and then I'm going

04:22PM 7 to ask you if this is the MDMA.

04:22PM 8 **MR. TRIPI:** Handing up 296A and B, Your Honor.

04:22PM 9 **BY MR. TRIPI:**

04:22PM 10 Q. Do you see those items in FBI, sort of, packaging?

04:22PM 11 A. Yes.

04:22PM 12 Q. Does that consist of the MDMA we just looked in the

04:22PM 13 photos, specifically 51A-, I think, 3, 4, 5, and 6?

04:22PM 14 A. Yes.

04:22PM 15 Q. Other than the fact that it's now in sort of FBI

04:23PM 16 wrapping, does this -- is it in the same or substantially the

04:23PM 17 same condition today as when you gave your consistent search?

04:23PM 18 A. Yes, it is.

04:23PM 19 **MR. TRIPI:** The government offers 296A and 296B,

04:23PM 20 Your Honor.

04:23PM 21 **MR. MacKAY:** No objection.

04:23PM 22 **THE COURT:** They're received without objection.

04:23PM 23 **(GOV Exhibits 296A and 296B were received in evidence.)**

04:23PM 24 **MR. TRIPI:** Thank you. I'll hold them up for the

04:23PM 25 jury, take them out of the box.

04:23PM 1 **BY MR. TRIPPI:**

04:23PM 2 Q. Why did you keep that stuff so long? You had it, you
04:23PM 3 said, over a year.

04:23PM 4 A. They didn't want to take it back because they'd have to
04:23PM 5 bring it back to Canada, so it was just kind of what to do
04:23PM 6 with it.

04:23PM 7 Q. Was that generally not a product you sold?

04:23PM 8 A. No, it wasn't.

04:24PM 9 Q. Was that something that Jarrett Guy sent you anyway to
04:24PM 10 see if could you move it?

04:24PM 11 A. Yes.

04:24PM 12 Q. All right. I'd like to go through this timeline of your
04:24PM 13 dealings focusing in on your relationship with Mr. Masecchia
04:24PM 14 and its evolution, okay?

04:24PM 15 A. Okay.

04:24PM 16 Q. In or about the fall of 2007 -- withdrawn.

04:24PM 17 Earlier, you had said when you were 18 or 19, you were
04:24PM 18 sort of going to Masecchia for marijuana, but it was
04:24PM 19 indirect. You were going through LoVallo and then Tomasello?

04:24PM 20 A. Yes.

04:24PM 21 Q. In or about the fall of 2007, did you start having a
04:24PM 22 direct relationship with Masecchia regarding marijuana
04:24PM 23 distribution?

04:24PM 24 A. Yes.

04:24PM 25 Q. Tell the jury how that began in or about the fall of

04:24PM 1 2007?

04:24PM 2 A. Me and Joe Tomasello had a falling out, so we didn't
04:24PM 3 speak. And then Mike knew this place that I hung out at, and
04:24PM 4 my friend was the manager, it was O Restaurant on Sheridan
04:25PM 5 Drive. He went there and set up a meeting with my friend,
04:25PM 6 Joe, to meet me.

04:25PM 7 Q. So it was like a restaurant/bar called "O"?

04:25PM 8 A. Yes.

04:25PM 9 Q. And who was your friend that Masecchia went in and sort
04:25PM 10 of indicated that he wanted to meet you?

04:25PM 11 A. Joe Gugino.

04:25PM 12 Q. Did you have another friend that worked there?

04:25PM 13 A. Yes.

04:25PM 14 Q. Who was that other friend?

04:25PM 15 A. Chris Baker.

04:25PM 16 Q. We've talked about him already, right?

04:25PM 17 A. Correct.

04:25PM 18 Q. Okay. So after Masecchia indicates that he wants to meet
04:25PM 19 you, did -- did you have a follow-up meeting at O with Mike
04:25PM 20 Masecchia?

04:25PM 21 A. Yes.

04:25PM 22 Q. Was that to discuss operations and distribution of
04:25PM 23 marijuana?

04:25PM 24 A. Yes.

04:25PM 25 Q. Describe that conversation you had with Mr. Masecchia in

04:25PM 1 terms of marijuana distribution.

04:25PM 2 A. They wanted to know if I wanted to buy any of the
04:26PM 3 marijuana that was growing outdoors.

04:26PM 4 Q. What did he tell you about his operation at that time?

04:26PM 5 A. Not too much. Just -- well, I knew it was somewhere in
04:26PM 6 Franklinville or Ellicottville.

04:26PM 7 Q. By that point in time, how much marijuana were you moving
04:26PM 8 that was ultimately sourced from Mr. Masecchia?

04:26PM 9 A. Well, it would be usually just in the fall, so I want to
04:26PM 10 say maybe 10, 20 pounds.

04:26PM 11 Q. And was this a meeting for you to become more involved
04:26PM 12 directly with him in the grows?

04:26PM 13 A. Yes.

04:26PM 14 Q. What role did he want you or ask you to take?

04:26PM 15 A. To basically -- well, for the indoor -- well, actually
04:26PM 16 the indoor, we didn't start until two years later, but it was
04:26PM 17 more just to sell the outdoor marijuana for him.

04:26PM 18 Q. So were you gonna become like his sole distributor?

04:26PM 19 A. Yes.

04:27PM 20 Q. You were gonna take all the product?

04:27PM 21 A. Correct.

04:27PM 22 Q. And move it all for him?

04:27PM 23 A. Yes.

04:27PM 24 Q. Was the idea that that would make it easier for him, only
04:27PM 25 dealing with one person?

04:27PM 1 A. Yes.

04:27PM 2 Q. Did you agree to do that?

04:27PM 3 A. Yes.

04:27PM 4 Q. Did you explain to Mr. Masecchia you had the ability to

04:27PM 5 move everything that he could produce at those outdoor grows?

04:27PM 6 A. Yes.

04:27PM 7 Q. What did he say about that?

04:27PM 8 A. He was happy about it.

04:27PM 9 Q. As time went on, from that moment on, did your

04:27PM 10 relationship with Masecchia grow?

04:27PM 11 A. Yes.

04:27PM 12 Q. Did you develop a nickname that he called you?

04:27PM 13 A. Yes.

04:27PM 14 Q. What was your nickname?

04:27PM 15 A. Greenie.

04:27PM 16 Q. Why did he call you Greenie?

04:27PM 17 A. Because I was good at growing marijuana and making money.

04:28PM 18 Q. Now, earlier you indicated you then started to show

04:28PM 19 Masecchia how to set up indoor grows; is that right?

04:28PM 20 A. Correct.

04:28PM 21 Q. At that point in his operations, did he have any indoor

04:28PM 22 grows going on?

04:28PM 23 A. He had one at John Suppa's house.

04:28PM 24 Q. Is this the one that you get involved in in 2008?

04:28PM 25 A. Yes.

04:28PM 1 Q. Did you improve it? What work did you do there?

04:28PM 2 A. I redid everything. They had plants in every room in the
04:28PM 3 house and wires everywhere. It was like a fire hazard. So I
04:28PM 4 condensed it to the basement.

04:28PM 5 Q. You basically recreated the grow?

04:28PM 6 A. Yes.

04:28PM 7 Q. Did you increase the capacity for the -- for it to grow
04:28PM 8 more plants?

04:28PM 9 A. Well, they were growing too many that they couldn't take
04:28PM 10 care of them, they weren't doing it properly. So I grew
04:28PM 11 less, but they made way more money.

04:28PM 12 Q. How many plants were they growing before you got
04:28PM 13 involved?

04:28PM 14 A. I don't even know, probably thousands.

04:29PM 15 Q. In Suppa's house there?

04:29PM 16 A. Yes, all over.

04:29PM 17 Q. And this is the house on Hertel?

04:29PM 18 A. Yes.

04:29PM 19 Q. And what did you take it down to?

04:29PM 20 A. Took it to 14 lights.

04:29PM 21 Q. How many plants?

04:29PM 22 A. It was about 12 to each light. So, maybe 170 plants,
04:29PM 23 180.

04:29PM 24 Q. And how -- how did -- how were you able to reduce the
04:29PM 25 number of plants and make that operation more profitable?

04:29PM 1 A. Because they were inefficient. They were probably making
04:29PM 2 about 10,000 every two and a half months.

04:29PM 3 And then when I did it, we were splitting around 70,000
04:29PM 4 every two and a half months. Just efficiency.

04:29PM 5 Q. More plants survive, less plants die. That kind of
04:29PM 6 thing?

04:29PM 7 A. Yes, correct. When you have too many, you can't take
04:29PM 8 care of them all, so if you have less, you can attend to them
04:29PM 9 more so they produce more.

04:29PM 10 Q. And I think earlier you said by 2013, 2014, you -- you
04:30PM 11 did the same thing at Lou Selva's house?

04:30PM 12 A. Correct.

04:30PM 13 Q. Describe the grow you set up there.

04:30PM 14 A. I believe it was four lights there.

04:30PM 15 Q. How many plants?

04:30PM 16 A. Not -- probably about 50 to 60.

04:30PM 17 Q. Total?

04:30PM 18 A. Yes.

04:30PM 19 Q. Who helped you set that up?

04:30PM 20 A. Mike was there. But, I mean, I did all the work.

04:30PM 21 Q. Was Lou there as well?

04:30PM 22 A. Yes.

04:30PM 23 Q. And then how many plants were you -- did you set up for
04:30PM 24 the grow at Martino's house?

04:30PM 25 A. That, I think we did six lights there. So probably

04:30PM 1 around 100.

04:30PM 2 Q. And what year did you set that grow up?

04:30PM 3 A. It would say it was 2013 or '14.

04:30PM 4 Q. Okay. Within that same general timeframe of Selva's

04:31PM 5 grow?

04:31PM 6 A. Correct.

04:31PM 7 Q. Now, when you were talking with Masecchia about his

04:31PM 8 outdoor grows, you mentioned a moment ago he mentioned sort

04:31PM 9 of Franklinville/ Ellicottville area?

04:31PM 10 A. Yes.

04:31PM 11 Q. What -- and what information in that initial meeting did
04:31PM 12 he tell you about those grows?

04:31PM 13 A. Not much, any specifics.

04:31PM 14 Q. How did the marijuana make it from those grows initially
04:31PM 15 to you, to those outdoor grows?

04:31PM 16 A. I believe -- the one time I helped them process it by

04:31PM 17 clipping it. So he would clip it at his property on -- I

04:31PM 18 forgot what the address is. But the Franklinville property.

04:31PM 19 And then once he would process it, he would drive it

04:31PM 20 back.

04:31PM 21 Q. So is this in the -- still the 2008 timeframe?

04:31PM 22 A. Yes.

04:31PM 23 Q. So you did go to the property to help clip?

04:31PM 24 A. Yeah. Yes. Not in 2007, but in 2008. The fall of 2008.

04:32PM 25 Q. Okay. And so let's talk a little bit about that.

04:32PM 1 You start becoming involved in that regard in the outdoor
04:32PM 2 grows with Masecchia. Tell the jury what the process is and
04:32PM 3 how it differs from an outdoor grow operation from an indoor
04:32PM 4 grow.

04:32PM 5 A. The outdoor, you have to plant them in June, and then
04:32PM 6 they grow all through the summer. You've got to water them
04:32PM 7 and make sure that there's not slugs and protect them from
04:32PM 8 the deer with different various fences and stuff like that.

04:32PM 9 And then you harvest them in October. Late September,
04:32PM 10 early October.

04:32PM 11 Q. Now, are there -- is there a difference in the quality
04:32PM 12 between the indoor and the outdoor marijuana?

04:32PM 13 A. Yes, outdoor is lesser quality.

04:32PM 14 Q. Are there more challenges to growing outdoors?

04:32PM 15 A. Yes.

04:32PM 16 Q. What are some of the challenges?

04:32PM 17 A. The weather, mold, animals. More exposed to law
04:32PM 18 enforcement.

04:32PM 19 Q. When the plants have grown, do they need to be cut or
04:33PM 20 clipped?

04:33PM 21 A. Yes.

04:33PM 22 Q. Explain that part of the process. So once the plant --
04:33PM 23 withdrawn.

04:33PM 24 Does the same cloning have to happen to transport plants
04:33PM 25 out into the ground?

04:33PM 1 A. Yes.

04:33PM 2 Q. So plants are cloned indoors?

04:33PM 3 A. Correct. They're grown indoors starting in April, and

04:33PM 4 then you grow them to about maybe a foot and a half high, and

04:33PM 5 then you transfer them outside.

04:33PM 6 Q. Okay. So that process of outdoor grows begins indoors in

04:33PM 7 April?

04:33PM 8 A. Correct.

04:33PM 9 Q. And it proceeds to outdoors by maybe June?

04:33PM 10 A. Yes.

04:33PM 11 Q. And then if the weather is good into October, you're

04:33PM 12 cutting down plants and clipping?

04:33PM 13 A. Correct.

04:33PM 14 Q. And when you're clipping, what are you -- what are you

04:33PM 15 clipping?

04:33PM 16 A. Clipping the leaves off. And just -- you finish with the

04:33PM 17 bud. You take all the leaves, so you got just a bud at the

04:33PM 18 end. And that's what you sell.

04:33PM 19 Q. And just during this time period, were you still having

04:33PM 20 other indoor grows as part of your operation?

04:34PM 21 A. Yes.

04:34PM 22 Q. Were you still using 82 Sycamore or 608 Michigan as part

04:34PM 23 of your operation?

04:34PM 24 A. Yes.

04:34PM 25 Q. How would the -- how would the marijuana get transported

04:34PM 1 to you? Or how would you get the Masecchia weed to
04:34PM 2 distribute in the Buffalo area?

04:34PM 3 A. He would drive it to me.

04:34PM 4 Q. Where would he deliver to you?

04:34PM 5 A. Usually my house.

04:34PM 6 Q. In '08, '09, 2010, where did you live?

04:34PM 7 A. 125 Huntington Court in Williamsville.

04:34PM 8 Q. And then for -- for those outdoor marijuana grows to get
04:34PM 9 you the weed in 2011, '12, '13, '14, '15, '16, for those

04:34PM 10 years, would that weed get delivered to you at 697 Lebrun?

04:34PM 11 A. Yes. I think he might have taken a year off, a year or
04:35PM 12 two off in between that time too.

04:35PM 13 Q. For the outdoor grow?

04:35PM 14 A. Yes.

04:35PM 15 Q. What year do you think that was?

04:35PM 16 A. I'm not quite sure, maybe '12 and '13.

04:35PM 17 Q. Well, that's two years, so --

04:35PM 18 A. Yeah. Between that, one of them two years.

04:35PM 19 Q. One of those two years he was down?

04:35PM 20 A. Yes.

04:35PM 21 Q. Do you know why?

04:35PM 22 A. I don't.

04:35PM 23 Q. Is that an estimate?

04:35PM 24 A. Yes, that's an estimate.

04:35PM 25 Q. What did Masecchia tell you about who was involved in the

04:35PM 1 outdoor grow?

04:35PM 2 A. It was Lou.

04:35PM 3 Q. Selva?

04:35PM 4 A. Lou Selva. Dave Hersey. Some guy nicknamed Fat Ass.

04:35PM 5 And I'm not sure who else.

04:35PM 6 Q. Are these people that you met over time?

04:35PM 7 A. Yes.

04:35PM 8 Q. As you grew closer -- so the initial meeting setting this

04:35PM 9 up is in 2007. Is that in anticipation of the grow season in

04:36PM 10 2008?

04:36PM 11 A. Yes. Well, I took marijuana from them in 2007. It was

04:36PM 12 in the fall, so he had marijuana.

04:36PM 13 Q. Okay. And then I guess you becoming the sole distributor

04:36PM 14 is looking forward in time from that meeting into the next

04:36PM 15 season?

04:36PM 16 A. Correct.

04:36PM 17 Q. Okay. By the time that next season rolled around, now

04:36PM 18 we're talking early 2008?

04:36PM 19 A. Yes.

04:36PM 20 Q. During that timeframe, were you becoming closer with

04:36PM 21 Mr. Masecchia?

04:36PM 22 A. Yes.

04:36PM 23 Q. Did there come a point in time when Mr. Masecchia told

04:36PM 24 you about a DEA agent named Joe Bongiovanni in or about 2008?

04:36PM 25 A. Yes.

04:36PM 1 Q. What did Mr. Masecchia tell you about Joe Bongiovanni?

04:36PM 2 A. He said that he grew up with him, and he said that Joe
04:36PM 3 would tell him to -- what to look out for, like surveillance
04:36PM 4 vehicles and stuff like that.

04:36PM 5 Q. Did he tell you that Joe would -- would give him a
04:37PM 6 heads-up?

04:37PM 7 A. Yes.

04:37PM 8 Q. What did you understand that to mean?

04:37PM 9 A. To see if there was an investigation on him.

04:37PM 10 Q. Did that provide you a level of comfort?

04:37PM 11 A. Yes.

04:37PM 12 Q. Did you like the idea of the fact that Masecchia was
04:37PM 13 linked up with a DEA agent?

04:37PM 14 A. Yes.

04:37PM 15 Q. Why did you like that idea?

04:37PM 16 A. Extra protection.

04:37PM 17 Q. Did Masecchia tell you anything about Bongiovanni's
04:37PM 18 ability to go on the computer?

04:37PM 19 A. Yes.

04:37PM 20 Q. What did he say about that?

04:37PM 21 A. He wasn't too specific. Just that he had access to
04:37PM 22 information that he could punch in on a computer.

04:37PM 23 Q. Aside from the fact that he told you he knew the
04:37PM 24 defendant, they were friends, and that the defendant would
04:38PM 25 look out, what else did Masecchia tell you about the nature

04:38PM 1 or extent of his relationship with Bongiovanni?

04:38PM 2 A. He didn't say much more.

04:38PM 3 Q. Did you know they had been friends for a long time?

04:38PM 4 A. Yes, he said they --

04:38PM 5 Q. That's what I'm asking.

04:38PM 6 A. He said that he grew up with him.

04:38PM 7 Q. Okay. Now when you first learned about that

04:38PM 8 relationship, were you making payments --

04:38PM 9 A. No.

04:38PM 10 Q. -- to Masecchia to give to Bongiovanni?

04:38PM 11 A. No.

04:38PM 12 Q. Okay. Based upon the people that Masecchia told you were

04:38PM 13 involved in the grow with him, Lou Selva, Dave Hersey, this

04:38PM 14 person Fat Ass, did you have an understanding of whether

04:38PM 15 those were also people who had grown up with Bongiovanni?

04:38PM 16 A. That, I don't know.

04:38PM 17 Well, I knew that Lou Selva was best friends with him.

04:38PM 18 Q. Okay.

04:38PM 19 A. The other people, I -- I don't know.

04:38PM 20 Q. Okay. Did you visit the location of that grow? You said

04:38PM 21 you clipped there, but did you go out there?

04:39PM 22 A. I went out there to clip. I didn't go to where they were
04:39PM 23 actually growing it, though.

04:39PM 24 Q. Okay. Explain the difference. So you went to --

04:39PM 25 withdrawn.

04:39PM 1 Was the location you went to a location on Morgan Hollow
04:39PM 2 Road?

04:39PM 3 A. Yes.

04:39PM 4 Q. That was where you went to clip?

04:39PM 5 A. Correct.

04:39PM 6 Q. Whose property was that?

04:39PM 7 A. That was Mike Masecchia's and -- I forgot. His partner's
04:39PM 8 name is Suppa, John Suppa's brother. I forgot what his first
04:39PM 9 name was.

04:39PM 10 Q. Okay. And so that's where the marijuana was ready to
04:39PM 11 clip and sort of get ready to cut it down to bud?

04:39PM 12 A. Yes.

04:39PM 13 Q. And bag up?

04:39PM 14 A. Correct.

04:39PM 15 Q. But was the actual grow somewhere in that area but not on
04:39PM 16 Suppa's exact land?

04:39PM 17 A. Correct.

04:39PM 18 Q. Explain that for the jury. Where was the grow versus
04:39PM 19 where the clipping was?

04:39PM 20 A. I'm not sure exactly where. I know it was in the
04:39PM 21 vicinity. But usually you don't clip it where you grow it
04:40PM 22 because, in case law enforcement comes, you don't want to
04:40PM 23 have it there any longer than you have to.

04:40PM 24 I mean, sometimes you do -- you do do it, but you try not
04:40PM 25 to.

04:40PM 1 Q. So your understanding was the -- the -- the plants were
04:40PM 2 grown some -- somewhere near, but off -- off Suppa's
04:40PM 3 property?

04:40PM 4 A. Correct.

04:40PM 5 Q. And during this timeframe, 2008 timeframe, how many
04:40PM 6 plants were you growing -- I might have asked you this, and I
04:40PM 7 apologize if I did, but how many plants were you growing in
04:40PM 8 your warehouse?

04:40PM 9 A. It depends if my brother was helping me, because he was a
04:40PM 10 felon. I would do 99 because of the federal guidelines.

04:40PM 11 But sometimes he wouldn't help me, so I'd do more if he
04:40PM 12 wasn't helping me.

04:40PM 13 Q. Why did you limit it to 99 if your brother was helping
04:40PM 14 you? Explain that for the jury.

04:41PM 15 A. Because my brother is a felon. And federally, any
04:41PM 16 plants -- if you have plants over 100, it's a mandatory
04:41PM 17 minimum of five years.

04:41PM 18 Q. And so you tried to keep that under 100 if your brother
04:41PM 19 was involved?

04:41PM 20 A. Correct, because he was already a prior felon.

04:41PM 21 Q. And if he wasn't helping you with a particular grow, how
04:41PM 22 many plants would you grow?

04:41PM 23 A. Double that.

04:41PM 24 Q. Almost 200?

04:41PM 25 A. Yes.

04:41PM 1 Q. So this is overlapping with the outdoor grows that you're
04:41PM 2 selling Masecchia's marijuana?

04:41PM 3 A. Correct.

04:41PM 4 Q. How many -- generally speaking, how many indoor grow
04:41PM 5 cycles could you get in a year?

04:41PM 6 A. You could do to two to three if you don't do it in the --
04:41PM 7 it's -- it's tough in the summertime because of the heat.

04:41PM 8 If you cut down the amount of lights, you can still do it
04:41PM 9 in the summer, but to me it wasn't worth it.

04:42PM 10 Q. So on average, two to three grow cycles indoors in the
04:42PM 11 summer?

04:42PM 12 A. In the winter.

04:42PM 13 Q. In the winter?

04:42PM 14 A. Correct.

04:42PM 15 Q. So two to three per year --

04:42PM 16 A. Yeah.

04:42PM 17 Q. -- indoors, and then one cycle outdoors?

04:42PM 18 A. Yes.

04:42PM 19 Q. Now, in 2008, in addition to your properties where you
04:42PM 20 were growing marijuana, the Suppa property, and the outdoor
04:42PM 21 grow, were you also obtaining bulk marijuana that was getting
04:42PM 22 sort of transported into this area through Mark Kagan?

04:42PM 23 A. Yes.

04:42PM 24 Q. I think earlier you mentioned how you met Mark Kagan.
04:42PM 25 Can you remind the jury?

04:42PM 1 A. Through Mike Piazza.

04:42PM 2 Q. And who is Mike Piazza?

04:42PM 3 A. Someone I knew from North Buffalo.

04:42PM 4 Q. Is he someone who's also friends with Anthony Gerace, if

04:42PM 5 you know?

04:42PM 6 A. That, I -- I don't know. I mean, he probably knows him,

04:42PM 7 but --

04:42PM 8 Q. Is he someone who's friends with Lou Selva, if you know?

04:43PM 9 A. No. He's -- he's a lot -- I want to say he's, like, five

04:43PM 10 years younger than me.

04:43PM 11 Q. Okay. In any event, how much marijuana were you getting

04:43PM 12 through Mark Kagan?

04:43PM 13 A. 50 pounds a month.

04:43PM 14 Q. How frequently?

04:43PM 15 A. Once a month.

04:43PM 16 Q. I'm sorry about that.

04:43PM 17 For what price?

04:43PM 18 A. I believe it was around 3,700.

04:43PM 19 Q. Per pound?

04:43PM 20 A. Correct.

04:43PM 21 Q. And what were you turning it around and selling it for?

04:43PM 22 A. Anywhere between 4- to 42-.

04:43PM 23 Q. What would the -- what accounts for the variance in your

04:43PM 24 pricing, the 4,000 to 4,200 per month?

04:43PM 25 A. It depends on how much someone is taking, and what

04:43PM 1 they're willing to pay.

04:43PM 2 Q. Were you supplying it to a large number of your
04:43PM 3 distributors, people working with you?

04:44PM 4 A. Yes.

04:44PM 5 Q. How were you -- what was the transportation method of
04:44PM 6 acquiring the marijuana in this 2008 timeframe from Mark
04:44PM 7 Kagan?

04:44PM 8 A. He would drive it from me -- drive it to me from New York
04:44PM 9 City.

04:44PM 10 Q. So did you know exactly when he was leaving and exactly
04:44PM 11 when he should arrive?

04:44PM 12 A. Correct.

04:44PM 13 Q. Where would you meet Mark Kagan?

04:44PM 14 A. He would usually come right to my house.

04:44PM 15 Q. At that time, you were at 125 Huntington Court?

04:44PM 16 A. Correct.

04:44PM 17 Q. After you got it in town, what did you need to do to get
04:44PM 18 it ready for sale?

04:44PM 19 A. Usually just sold it. Or if it -- if there was --
04:44PM 20 sometimes when you get it, it's over maybe a quarter ounce or
04:44PM 21 an ounce over, so I would take it out because that's extra
04:44PM 22 money.

04:44PM 23 Q. So for every pound he brought you, would you reweigh
04:44PM 24 it --

04:44PM 25 A. Yes.

04:44PM 1 Q. -- to see what actually it was?

04:45PM 2 A. Yes.

04:45PM 3 Q. Why would you do that?

04:45PM 4 A. Well, you know, to make sure it was on or if it was over,

04:45PM 5 to take the overage out so I can make more money.

04:45PM 6 Q. What do you mean by that? Explain that for the jury.

04:45PM 7 A. Say you have 50 pounds and then it's 50 ounces.

04:45PM 8 That's -- what's that? Roughly an extra, like, maybe 3 or 4

04:45PM 9 pounds. And at almost \$4,000 a pound, that's an extra

04:45PM 10 \$12,000 each time.

04:45PM 11 Q. So you would take -- if -- if there was a certain pound

04:45PM 12 that was over by a little bit, you would take that out?

04:45PM 13 A. Yes.

04:45PM 14 Q. And you would go through all the different pounds and do

04:45PM 15 that?

04:45PM 16 A. Correct.

04:45PM 17 Q. And then see how much more you got?

04:45PM 18 A. Correct.

04:45PM 19 Q. Would you package that up in its own packaging?

04:45PM 20 A. Yes.

04:45PM 21 Q. And then sell it?

04:45PM 22 A. Correct.

04:45PM 23 Q. Did you apply that level of detail to every shipment?

04:45PM 24 A. Yes.

04:45PM 25 Q. Would you have people that helped you get it ready for

04:45PM 1 sale?

04:45PM 2 A. Yes.

04:45PM 3 Q. Who were some of those people?

04:45PM 4 A. Mark Falzone, Matt LoTempio, Jacob Martinez, Anthony
04:45PM 5 Greco?

04:46PM 6 Q. When you were selling it to people for distribution, were
04:46PM 7 you fronting it? Or were you making people pay you up front?

04:46PM 8 A. On the most part, I was fronting it. Some people paid
04:46PM 9 cash.

04:46PM 10 Q. Did you have a recurring network of customers?

04:46PM 11 A. Yes.

04:46PM 12 Q. Were your customers people who were smoking it or
04:46PM 13 reselling it?

04:46PM 14 A. Reselling it.

04:46PM 15 Q. As you're dealing with Kagan getting this 50 pounds in
04:46PM 16 per month, you still have your own grows on and you're still
04:46PM 17 in grows with Masecchia?

04:46PM 18 A. Yes.

04:46PM 19 Q. During that timeframe, would -- when Masecchia wanted
04:46PM 20 more marijuana to distribute, if that circumstance arose,
04:46PM 21 would you supply him?

04:46PM 22 A. Yes.

04:46PM 23 Q. How did you and Kagan communicate and coordinate these
04:47PM 24 drop-offs?

04:47PM 25 A. Through prepaid cell phones, called burner phones.

04:47PM 1 Q. Why did you use prepaid cell phones?

04:47PM 2 A. Because it's non traceable.

04:47PM 3 Q. In other words, if someone's looking into that phone
04:47PM 4 number, it doesn't have your name associated with it?

04:47PM 5 A. Correct.

04:47PM 6 Q. Okay. Approximately how long did Mark Kagan supply you
04:47PM 7 in the manner you've just described?

04:47PM 8 A. Probably until 2011.

04:47PM 9 Q. And were you consistently looking for additional and
04:47PM 10 alternate suppliers?

04:47PM 11 A. Yes.

04:47PM 12 Q. Was it your idea that the more product you could bring
04:47PM 13 in, the more product you could move?

04:47PM 14 A. Yes.

04:48PM 15 Q. Did those sources of supply and the grows that we've just
04:48PM 16 discussed, Mark Kagan, did that continue in 2009?

04:48PM 17 A. Yes.

04:48PM 18 Q. Did your operations with Masecchia continue in 2009?

04:48PM 19 A. Yes.

04:48PM 20 Q. So we've just gone through two years, roughly, right,
04:48PM 21 2008 and 2009. Based upon what you were paying and
04:48PM 22 distributing in the different indoor grow at Suppa's house
04:48PM 23 that you had going on, what would you estimate Masecchia's
04:48PM 24 yearly share of the proceeds were from your drug operations
04:48PM 25 each year, 2008 and 2009?

04:48PM 1 A. Say at least 100- or \$150,000.

04:48PM 2 Q. Per year?

04:48PM 3 A. Yes.

04:48PM 4 Q. Now, from that point in time in your operations with

04:48PM 5 Masecchia, so '08, '09, you just estimated 100- to \$150,000,

04:49PM 6 from there, did his profits increase over time working with

04:49PM 7 you?

04:49PM 8 A. Yes.

04:49PM 9 Q. Did your profits increase?

04:49PM 10 A. Yes.

04:49PM 11 Q. Did you guys have a good working relationship?

04:49PM 12 A. We did.

04:49PM 13 Q. Did you ever get in any big blowouts or fights?

04:49PM 14 A. No.

04:49PM 15 Q. If you know, was Masecchia able to purchase property out
04:49PM 16 of state?

04:49PM 17 A. I believe he purchased a condo in Florida.

04:49PM 18 Q. Do you know whether he put it in his name or his parents'
04:49PM 19 name?

04:49PM 20 A. That, I'm not sure.

04:49PM 21 Q. Now, after a little while, those -- those sort of first
04:50PM 22 two years we just talked about, did there come a point in
04:50PM 23 time -- well, withdrawn.

04:50PM 24 You did not grow up with Joseph Bongiovanni; is that
04:50PM 25 right?

04:50PM 1 A. No.

04:50PM 2 Q. As you started making money, were -- were your operations
04:50PM 3 getting larger?

04:50PM 4 A. Yes.

04:50PM 5 Q. Did there come a point in time where you had a discussion
04:50PM 6 with Masecchia about making monetary payments to Bongiovanni
04:50PM 7 through Mike Masecchia?

04:50PM 8 A. Yes.

04:50PM 9 Q. Where did you first have that conversation with
04:50PM 10 Masecchia?

04:50PM 11 A. It was at my house, in my garage at 125 Huntington Court.

04:50PM 12 Q. Were you two the only ones there?

04:50PM 13 A. Yes.

04:50PM 14 Q. How did that conversation first come up?

04:50PM 15 A. He just said how that Joe's willing to give information
04:51PM 16 for money, to look out for us and make sure we're not under
04:51PM 17 investigation and let us know about potential people
04:51PM 18 cooperating against us.

04:51PM 19 Q. By that point in time, had some friends of yours or some
04:51PM 20 people you know gotten caught up in a federal, like, roundup?

04:51PM 21 A. Yes.

04:51PM 22 Q. Who were some of the people you knew had been caught up
04:51PM 23 in a federal roundup?

04:51PM 24 A. Dave Gambino and Sam Vacanti.

04:51PM 25 Q. Now, that name Sam Vacanti, is he related to that Mario

04:51PM 1 Vacanti who was -- who you mentioned earlier was ultimately
04:51PM 2 moving marijuana with you?

04:51PM 3 A. Yes, that's his brother.

04:52PM 4 Q. Okay. Can you, in as much detail as you can, and I'll
04:52PM 5 ask some followups, describe for this jury that conversation
04:52PM 6 with Masecchia in your garage, please.

04:52PM 7 As much of it as you can remember, and then I'll follow
04:52PM 8 up.

04:52PM 9 A. He said that for 2,000 a month, that Joe would make sure
04:52PM 10 that we weren't being under investigation, check phones, and
04:52PM 11 let us know about any possible informants.

04:52PM 12 And then I asked him to ask about how -- because I'm sure
04:52PM 13 there was, like, tons of informants. So, like, how would he
04:52PM 14 be able to cover it all?

04:52PM 15 And Mike said that he would ask him, but he never got
04:52PM 16 back to me on that though.

04:52PM 17 Q. At that point, you didn't get an explanation as to how he
04:52PM 18 would be able to do it?

04:52PM 19 A. Well, about the informants? No. Just that he could tell
04:52PM 20 by going on the computer or something.

04:53PM 21 Q. Did Masecchia come back and explain to you how the
04:53PM 22 defendant would check phones?

04:53PM 23 A. He said we would run it through some system or something.

04:53PM 24 Q. Did you -- did you -- what was your understanding of what
04:53PM 25 Masecchia meant when he said check phones?

04:53PM 1 A. See if they were tapped.

04:53PM 2 Q. Now, even though you used burner phones, did you have a
04:53PM 3 main cell phone that you kept?

04:53PM 4 A. Yes.

04:53PM 5 Q. Did you want to make sure that phone was not being
04:53PM 6 tapped?

04:53PM 7 A. Yes.

04:53PM 8 Q. At that point, did Masecchia tell you anything about how
04:53PM 9 frequently the \$2,000 would -- would be paid?

04:53PM 10 A. Monthly.

04:53PM 11 Q. At that point, did Masecchia explain to you or tell you
04:53PM 12 how the information would be reported from Bongiovanni back
04:53PM 13 to you?

04:54PM 14 A. Well, usually Lou -- Lou was good friends with him and
04:54PM 15 around him all the time, so that information would flow
04:54PM 16 through Lou.

04:54PM 17 Q. Did you agree to this arrangement?

04:54PM 18 A. Yes.

04:54PM 19 Q. Did you complain about having to pay?

04:54PM 20 A. No.

04:54PM 21 Q. Did it seem like a good deal to you?

04:54PM 22 A. It did.

04:54PM 23 Q. Was \$2,000 a month a lot of money for -- for -- for you
04:54PM 24 at that time?

04:54PM 25 A. No.

04:54PM 1 Q. Who came up with the price per month as far as you
04:54PM 2 understand it?

04:54PM 3 A. I don't know if Joe came up with it or Mike, but Mike is
04:54PM 4 the one that presented it to me, so I don't know.

04:54PM 5 Q. Did Mike explain to you who would -- who would actually
04:55PM 6 meet with Joseph Bongiovanni and pay him?

04:55PM 7 A. No.

04:55PM 8 Q. Did you know who you would hand the money to?

04:55PM 9 A. Yes. Mike Masecchia.

04:55PM 10 Q. At that point, did you think formalizing or having the
04:55PM 11 defendant on formal payroll was good for business?

04:55PM 12 A. Yes.

04:55PM 13 Q. Why?

04:55PM 14 A. To avoid arrest.

04:55PM 15 Q. If he was providing information to Masecchia before, as
04:55PM 16 you explained, why pay him?

04:55PM 17 A. That, I don't know.

04:55PM 18 Q. Do you know who came up with it?

04:55PM 19 A. That, I don't know.

04:55PM 20 Q. Did you feel as though if you were paying the defendant,
04:56PM 21 he was more committed to the arrangement?

04:56PM 22 A. Yes.

04:56PM 23 Q. Was that a comforting feeling for you?

04:56PM 24 A. Yes.

04:56PM 25 Q. Is that how it started?

04:56PM 1 A. Yes.

04:56PM 2 **MR. TRIPI:** Is this a good breaking point for the
04:56PM 3 day, Judge?

04:56PM 4 **THE COURT:** Sure.

04:56PM 5 So, folks, we will break for the day.

04:56PM 6 Remember my instructions. Don't use tools of
04:56PM 7 technology for any reason at all, either to learn about the
04:56PM 8 case or communicate about the case. If the case finds its way
04:56PM 9 to TV or radio or newspapers or the internet, don't watch or
04:56PM 10 read or listen to any of it.

04:56PM 11 Don't communicate about the case in any way
04:56PM 12 whatsoever with anyone, including each other. And don't make
04:56PM 13 up your mind until you start deliberating.

04:56PM 14 We'll see you tomorrow morning at 9:30. Again, we're
04:56PM 15 down Wednesday and Thursday, and then back Friday at 9:30.

04:57PM 16 Drive carefully. Get a good night's sleep. See you
04:57PM 17 tomorrow morning.

04:57PM 18 (Jury excused at 4:57 p.m.)

04:57PM 19 **THE COURT:** Okay. Anything before we break from the
04:57PM 20 government?

04:57PM 21 **MR. COOPER:** Yes, Judge, but I think maybe it's best
04:57PM 22 practice just to excuse the witness and --

04:57PM 23 **THE COURT:** Sure.

04:57PM 24 Mr. Serio, you can -- you can leave. Thank you.

04:57PM 25 **MR. COOPER:** Thanks, Judge.

04:57PM 1 **MR. TRIPI:** Mr. Serio, don't talk to anybody about
04:57PM 2 your testimony.

04:57PM 3 **THE COURT:** Thank you, Mr. Tripi.

04:57PM 4 **MR. TRIPI:** You're welcome.

5 (Witness excused at 4:58 p.m.)

6 (Excerpt concluded at 4:58 p.m.)

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CERTIFICATE OF REPORTER

13

14 In accordance with 28, U.S.C., 753(b), I
15 certify that these original notes are a true and correct
16 record of proceedings in the United States District Court for
17 the Western District of New York on September 16, 2024.

18

19

s/ Ann M. Sawyer

20 Ann M. Sawyer, FCRR, RPR, CRR
21 Official Court Reporter
22 U.S.D.C., W.D.N.Y.

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